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THE
CONSTITUTION
OF THE
State of Maryland,

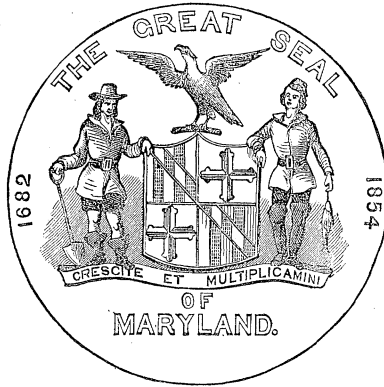
REPORTED AND ADOPTED BY THE CONVENTION OF DELEGATES ASSEMBLED AT THE CITY OF ANNAPOLIS, NOVEMBER 4th, 1850, AND
SUBMITTED TO AND RATIFIED BY THE PEOPLE ON
THE FIRST WEDNESDAY OF JUNE, 1851,

WITH
MARGINAL NOTES AND REFERENCES

To Acts of the General Assembly and Decisions of the Court of Appeals,

AND AN APPENDIX AND INDEX,

By EDWARD OTIS HINKLEY, Esq., *of the Baltimore Bar.*



BALTIMORE:
PRINTED AND PUBLISHED BY JOHN MURPHY & CO.,
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1855.

ENTERED, according to the Act of Congress, in the year 1855,
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in the Clerk's Office of the District Court of Maryland.

ADVERTISEMENT.

THE publishers, in issuing this edition of the new Constitution, being desirous of making it as useful and acceptable to the public as possible, have procured the services of a gentleman of the Baltimore Bar, who has some experience in work of this kind, to make marginal notes, with references to the Acts of Assembly and Decisions of the Court of Appeals relating to it, and an Appendix containing some *notes* of the principal *changes* made in the old Constitution by this new one, with *remarks* upon their supposed *causes*, and references to the different articles, sections and clauses of the instrument which impose special duties upon the Legislature and upon officers of other departments; to which is added a very full Index.

It is believed that these additions will render this edition as complete as possible.

November, 1855.

Maryland State Convention.

CHAMBER OF HOUSE OF DELEGATES,

November 5th, 1850.

At the hour of 12½, on motion of Ex-Gov. SPRIGG, of Prince George's, the Convention was called to order, by inviting the Hon. BENJAMIN C. HOWARD, of Baltimore county, to the Chair.

On motion of Hon. ELIAS BROWN, of Carroll, JAMES L. RIDGELY, Esq., of Baltimore county, was appointed Secretary pro tem.

On motion of the Hon. WM. H. TUCK, of Prince George's, the Chair was authorized to appoint a committee of three, to wait on the Executive and obtain a list of the Delegates chosen to this Convention.

The Chair named Messrs. TUCK, of Prince George's, GWINN, of Baltimore city, and RICAUD, of Kent, as the committee.

Mr. TUCK, from the committee, appointed to wait on the Governor, to obtain a list of the Delegates elect to the Convention, reported that the committee had performed that duty, and that the Secretary of State was now in attendance with a communication from the Governor, touching that subject.

Whereupon, JOHN NICK WATKINS, Esq., Secretary of State, presented the following communication from the Governor to the Convention, together with the official returns of the election :

STATE DEPARTMENT, ANNAPOLIS, MD.

November 5th, 1850.

Gentlemen of the Convention :

I have the honor, in compliance with your request, to transmit herewith the returns of the election held on the first Wednesday of September last, under the Act of December Session, eighteen hundred and forty-nine, chapter three hundred and forty-six, entitled "an Act to provide for the taking of the sense of the people upon the expediency of calling a Convention to frame a new Constitution and form of Government for the State, and to provide for the election of Delegates to such Convention," and a list of the Delegates to the Convention.

PHILIP F. THOMAS.

A LIST OF

Members of the Maryland State Convention,

Elected under the provisions of the Act of the General Assembly of December Session 1849, ch. 346.

St. Mary's County.

GEORGE C. MORGAN,
WILLIAM J. BLACKISTONE,
JOHN F. DENT,
J. R. HOPEWELL.

Kent County.

JAMES B. RICAUD,
JOHN LEE,
EZEKIEL F. CHAMBERS,
JOSEPH T. MITCHELL.

Anne Arundel County.

THOMAS DONALDSON,
THOMAS B. DORSEY,
GEORGE WELLS,
ALEXANDER RANDALL,
JAMES KENT,
JOHN S. SELLMAN.

Calvert County.

GEORGE W. WEEMS,
J. J. DALRYMPLE,
JOHN BOND,
A. R. SOLLERS.

Baltimore County.

BENJAMIN C. HOWARD,
JAMES M. BUCHANAN,
EPHRAIM BELL,
THOMAS J. WELSH,
H. J. CHANDLER,
JAMES L. RIDGELY.

Charles County.

GEORGE BRENT,
JOHN G. CHAPMAN,
WILLIAM D. MERRICK,
DANIEL JENIFER.

Talbot County.

EDWARD LLOYD,
S. P. DICKINSON,
C. SHERWOOD,
M. O. COLSTON.

Somerset County.

JOHN DENNIS,
JAMES U. DENNIS,
J. W. CRISFIELD,
J. J. DASHIELL,
WILLIAM WILLIAMS.

Dorchester County.

THOMAS H. HICKS,
JOHN H. HODSON,
WM. T. GOLDSBOROUGH,
J. R. ECCLESTON,
FRANCIS P. PHELPS.

Cecil County.

ALBERT CONSTABLE,
B. B. CHAMBERS,
WILLIAM McCULLOUGH,
JOHN M. MILLER,
LOUIS McLANE.

Prince George's County.

THOMAS F. BOWIE,
WILLIAM H. TUCK,
SAMUEL SPRIGG,
JOHN M. S. McCUBBIN,
J. D. BOWLING.

Frederick County.

FRANCIS THOMAS,
EDWARD SHRIVER,
WILLIAM COST JOHNSON,
JOHN D. GAITHER,
DANIEL S. BISER,
ROBERT ANNAN.

Washington County.

GEORGE SCHLEY,
LEWIS P. FIERY,
ALEXANDER NEILL, JR.,
JOHN NEWCOMER,
THOMAS HARBINE,
MICHAEL NEWCOMER.

Montgomery County.

J. M. KILGOUR,
ALLEN BOWIE DAVIS,
WASHINGTON WATERS,
JOHN BREWER,
JAMES W. ANDERSON.

Baltimore City.

CHARLES J. M. GWINN,
DAVID STEWART,
ROBERT J. BRENT,
GEORGE W. SHERWOOD,
BENJAMIN C. PRESSTMAN,
ELIAS WARE, JR.

Worcester County.

L. L. DIRICKSON,
S. S. McMASTER,
E. HEARN,
JAMES M. FOOKS,
CURTIS W. JACOBS.

Harford County.

JOHN SAPPINGTON,
W. B. STEPHENSON,
R. McHENRY,
SAMUEL M. MAGRAW,
JAMES NELSON.

Alleghany County.

WILLIAM WEBER,
WILLIAM M. HOLLIDAY,
JOHN SLICER,
JAMES FITZPATRICK,
SAMUEL P. SMITH.

Queen Anne's County.

WILLIAM A. SPENCER,
WILLIAM GRASON,
ENOCH GEORGE,
HENRY E. WRIGHT.

Carroll County.

ANDREW G. EGE,
M. G. COCKEY,
JOSEPH M. PARKE,
JACOB SHOWER,
ELIAS BROWN.

Caroline County.

R. C. CARTER,
JOHN THAWLEY,
THOMAS R. STEWART,
EDWARD HARDCASTLE.

Officers of the Convention.

President.....HON. JOHN G. CHAPMAN, of Charles Co.
Secretary.....GEORGE G. BREWER, of Annapolis.
Assistant Secretary..WASHINGTON B. CHICHESTER, of Montgomery Co.
Sergeant-at-Arms...RICHARD BOOTH, of Carroll Co.
Door-Keepers.....SAMUEL J. LAMBDIN and S. C. HERBERT.
Committee Clerks...J. W. RIDER, GEO. S. KING, J. MORRITZ,
 S. PEACOCK, WILLIAM HALL.

Standing Committees.

Committee to consider and report a Declaration of Rights:

Messrs. Dorsey, Biser, Parke, Wright.
Williams, Blackistone, Hodson,

Committee to consider and report respecting the Executive Department:

Messrs. Grason,	Jenifer,	Goldsborough,	Holliday.
Sprigg,	Bell,	Hearn,	

Committee to consider and report respecting the Appointment, Tenure of Office, Duties and Compensation of all civil officers not embraced in the duties of other standing committees:

Messrs. Tuck, Dent, Jas. U. Dennis, Lee.
Brent, of Balt. Weber, McHenry,

Committee to consider and report respecting Treasury Department:

Messrs. McLane, Nelson, Bowling, Dashiell.
Donaldson, Neill, Sherwood, of Talbot,

Committee to consider and report respecting the Elective Franchise:

Messrs. Chambers, Brown, Weems, John Newcomer,
of Kent, Hicks, Thawley, Slicer.

Committee on Accounts:

Messrs. Wells, Williams, Lloyd, Neill, Ware.

Committee to close the Accounts, &c., of the Convention after its Session:

Messrs. Randall, Ware, Magraw.

Committee to consider and report respecting the power of the Legislature on Corporations, Municipal and others, and on the power of the Legislature to create Debt:

Messrs. Wells, Dirickson, Waters, Sherwood, of Balt.
Ridgely, Stewart, of Caroline, Mitchell.

STANDING COMMITTEES.

Committee to consider and report respecting the Legislative Department:

Messrs. Johnson,	Presstman,	Kilgour,	Carter.
Phelps,	Morgan,	McCullough,	

Committee to consider and report respecting Judiciary Department, embracing Common Law Courts, Courts of Equity, Orphans' Courts, Magistrates' Courts, and Justices of the Peace, and the mode of appointment and tenure of office:

Messrs. Bowie,	Randall,	Constable,	Schley,
*Thomas,	Stewart,	Brent,	Eccleston,
Chrisfield,	of Balt.,	of Charles,	Anderson.
Buchanan,	Ricaud,	Spencer,	

Committee to consider and report respecting the office of Attorney-General and his Deputies:

Messrs. Shriver,	Brewer,	Miller,	Colston.
Dalrymple,	Fiery,	Cockey,	

Committee to consider and report respecting future amendments and revisions of the Constitution:

Messrs. Sollers,	Jacobs,	Gaither,	Welsh.
Fitzpatrick,	Sappington,	Hardcastle,	

Committee to consider and report a proper basis of Representation in the two Houses of the General Assembly, and a proper apportionment of representation in the same:

Messrs. Merrick,	Chambers, of Kent,	Lloyd,	Harbine,
Howard,	Gwinn, Ege,	John Dennis,	Kent.

Committee to consider and report respecting the Regulation of Inspections:

Messrs. Sellman,	M. Newcomer,	Ware,	Chambers,
Hopewell,	Fooks,	Annan,	of Cecil.

Committee to consider and report such provisions proper to be embodied in a Constitution for the State, as are not embraced in the foregoing resolutions:

Messrs. Jenifer,	Dorsey,	Blackstone,	Johnson,
McLane,	Brent, of Balt.	Grason.	

Committee of Revision:

Messrs. Tuck,	Chambers,	Grason,	Randall,	Magraw.
<i>Afterwards added:</i> Messrs. Donaldson, Gwinn.				

Committee to consider and report respecting the Militia and Military Affairs:

Messrs. Howard,	Shower,	Dickinson,	Schley.
Hearn,	Bond,	Stephenson,	

Committee to consider and report respecting Education:

Messrs. Smith,	Magraw,	Chandler,	George.
Davis,	McCubbin,	McMaster,	

Committee on Printing:

Messrs. Stewart,	Bowie,	Johnson,	Ricaud,
of Balt.	Randall,	Spencer,	Weber.

* Mr. Thomas was excused at his own request from continuing a member of this Committee, and Mr. Morgan was appointed in his place.

Constitution of Maryland,

ADOPTED IN CONVENTION,

WHICH ASSEMBLED AT THE CITY OF ANNAPOLIS, ON THE FOURTH DAY OF
NOVEMBER, EIGHTEEN HUNDRED AND FIFTY, AND ADJOURNED ON THE
THIRTEENTH DAY OF MAY, EIGHTEEN HUNDRED AND FIFTY-ONE.

THE DECLARATION OF RIGHTS.

*We, the People of the State of Maryland, grateful to
Almighty God for our civil and religious liberty,
and taking into our serious consideration the best
means of establishing a good Constitution in this
State, for the sure foundation and more permanent
security thereof, declare :*

ARTICLE 1. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole ; and they have at all times, according to the mode prescribed in this Constitution, the unalienable right to alter, reform, or abolish their form of government, in such manner as they may deem expedient.

Origin and Foundation of Government.

Right of Reform.

ART. 2. That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof.

State's Rights.

ART. 3. That the inhabitants of Maryland are entitled to the common law of England, and the trial by jury according to the course

Common Law.

2 Md. 429.

Trial by Jury.

of that law, and to the benefit of such of the
 English Statutes. English statutes as existed on the fourth day
 of July, seventeen hundred and seventy-six,
 and which, by experience, have been found ap-
 plicable to their local and other circumstances,
 and have been introduced, used and prac-
 tised by the courts of law or equity, and also
 Acts of Assembly of all acts of Assembly in force on the first
 Monday of November, eighteen hundred and
 fifty, except such as may have since expired,
 or may be altered by this Constitution, subject,
 nevertheless, to the revision of, and amend-
 ment or repeal by the Legislature of this State;
 and the inhabitants of Maryland are also en-
 titled to all property derived to them from or
 Charter of the State. under the charter granted by his Majesty
 Charles the First, to Cæcilius Calvert, Baron
 of Baltimore.

Right of Reform. ART. 4. That all persons invested with the
 Legislative or Executive powers of govern-
 ment, are the trustees of the public, and as
 such accountable for their conduct; where-
 fore, whenever the ends of government are
 perverted, and public liberty manifestly en-
 dangered, and all other means of redress are
 ineffectual, the people may, and of right ought
 to reform the old or establish a new govern-
 ment. The doctrine of non-resistance against
 arbitrary power and oppression is absurd, sla-
 vish and destructive of the good and happiness
 of mankind.

Right of Suffrage. ART. 5. That the right of the people to par-
 ticipate in the Legislature is the best security
 of liberty, and the foundation of all free gov-
 ernment; for this purpose elections ought to

be free and frequent, and every free white male citizen having the qualifications prescribed by the Constitution, ought to have the right of suffrage.

ART. 6. That the legislative, executive and judicial powers of government ought to be forever separate and distinct from each other; and no person exercising the functions of one of said departments, shall assume or discharge the duties of any other.

Separation of the
Departments of
Government.

2 Md. 341.

do. 429.

ART. 7. That no power of suspending laws, or the execution of laws, unless by or derived from the Legislature, ought to be exercised or allowed.

Suspension of
Laws.

ART. 8. That freedom of speech and debate or proceedings in the Legislature, ought not to be impeached in any court of judicature.

Freedom of
Speech.

ART. 9. That Annapolis be the place for the meeting of the Legislature; and the Legislature ought not to be convened or held at any other place but from evident necessity.

Seat of Govern-
ment.

ART. 10. That for the redress of grievances, and for amending, strengthening and preserving the laws, the Legislature ought to be frequently convened.

Meeting of Legis-
lature.

ART. 11. That every man hath a right to petition the Legislature for the redress of grievances in a peaceable and orderly manner.

Right of Petition.

ART. 12. That no aid, charge, tax, burthen, or fees, ought to be rated or levied, under any pretence, without the consent of the Legislature.

Levying of
Taxes.

ART. 13. That the levying of taxes by the poll is grievous and oppressive, and ought to be abolished; that paupers ought not to be assessed for the support of Government, but

Poll taxes oppres-
sive.

Paupers not to be
taxed.

every other person in the State, or person holding property therein, ought to contribute his proportion of public taxes, for the support of Government, according to his actual worth in real or personal property; yet fines, duties, or taxes may properly and justly be imposed or laid, on persons or property, with a political view, for the good government and benefit of the community.

Taxation according to actual worth.
Fines, &c.

Sanguinary Laws.

ART. 14. That sanguinary laws ought to be avoided as far as is consistent with the safety of the State; and no law to inflict cruel and unusual pains and penalties ought to be made in any case, or at any time hereafter.

Retrospective Laws.

ART. 15. That retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust and incompatible with liberty; wherefore, no ex post facto law ought to be made.

Attainder.

ART. 16. That no law to attain particular persons of treason or felony, ought to be made in any case, or at any time hereafter.

Right to have justice.

ART. 17. That every free man, for any injury done to him in his person or property, ought to have remedy by the course of the law of the land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay, according to the law of the land.

Trial of facts where they arise.

ART. 18. That the trial of facts where they arise, is one of the greatest securities of the lives, liberties, and estate of the people.

Criminal Prosecutions.

ART. 19. That in all criminal prosecutions, every man hath a right to be informed of the

accusation against him; to have a copy of the indictment or charge, in due time (if required) to prepare for his defence; to be allowed counsel; to be confronted with the witnesses against him; to have process for his witnesses; to examine the witnesses for and against him on oath; and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

ART. 20. That no man ought to be compelled to give evidence against himself in a court of common law, or in any other court, but in such cases as have been usually practised in this State, or may hereafter be directed by the Legislature.

Evidence against oneself.

ART. 21. That no free man ought to be taken or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the law of the land; provided, that nothing in this article shall be so construed as to prevent the Legislature from passing all such laws for the government, regulation and disposition of the free colored population of this State as they may deem necessary.

Freemen not to be imprisoned, &c., but by Law.

2 Md. 429.

Colored Population.

ART. 22. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted by the courts of law.

Bail, Fines, &c.

ART. 23. That all warrants, without oath, or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants to search

Search Warrants.

suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special, are illegal, and ought not to be granted.

Corruption of
Blood, &c.

ART. 24. That no conviction shall work corruption of blood, or forfeiture of estate.

Militia.

ART. 25. That a well regulated militia is the proper and natural defence of a free government.

Standing Armies.

ART. 26. That standing armies are dangerous to liberty, and ought not to be raised or kept up without the consent of the Legislature.

Military subject
to Civil Power.

ART. 27. That in all cases and at all times the military ought to be under strict subordination to, and control of, the civil power.

Quartering of
Soldiers.

ART. 28. That no soldier ought to be quartered in any house in time of peace without the consent of the owner, and in time of war in such manner only as the Legislature shall direct.

Martial Law.

ART. 29. That no person, except regular soldiers, mariners, and marines, in the service of this State, or militia when in actual service, ought in any case be subject to, or punishable by, martial law.

Judges.

ART. 30. That the independency and uprightness of Judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people; wherefore the Judges shall not be removed, except for misbehaviour, on conviction in a court of law, or by the Governor, upon the address of the General Assembly; *provided*, that two-thirds of all the members of each House concur in such address. No Judge

shall hold any other office, civil or military, or political trust or employment of any kind whatsoever, under the Constitution or Laws of this State, or of the United States, or any of them, or receive fees or perquisites of any kind for the discharge of his official duties. 1 Md. 368.

ART. 31. That a long continuance in the executive departments of power or trust is dangerous to liberty; a rotation, therefore, in those departments is one of the best securities of permanent freedom. Rotation in Offices.

ART. 32. That no person ought to hold at the same time more than one office of profit, created by the Constitution or Laws of this State; nor ought any person in public trust to receive any present from any Foreign Prince, or State, or from the United States, or any of them, without the approbation of this State. Holding Offices. Presents.

ART. 33. That as it is the duty of every man to worship God in such manner as he thinks most acceptable to Him, all persons are equally entitled to protection in their religious liberty, wherefore, no person ought, by any law, to be molested in his person or estate, on account of his religious persuasion or profession, or for his religious practice, unless under the color of religion any man shall disturb the good order, peace, or safety of the State, or shall infringe the laws of morality, or injure others in their natural, civil, or religious rights; nor ought any person to be compelled to frequent or maintain or contribute, unless on contract, to maintain any place of worship or any ministry; nor shall any person be deemed incompetent as a witness or juror who believes in the exist- Religious Liberty

ence of a God, and that under his dispensation such person will be held morally accountable for his acts, and be rewarded or punished therefor, either in this world or the world to come.

Oaths of Office.

ART. 34. That no other test or qualification ought to be required, on admission to any office of trust or profit, than such oath of office as may be prescribed by this Constitution, or by the laws of the State, and a declaration of belief in the Christian religion; and if the party shall profess to be a Jew, the declaration shall be of his belief in a future state of rewards and punishments.

Disqualification
of Ministers and
Religious bodies
from holding cer-
tain property.

3 Md. 119.

ART. 35. That every gift, sale or devise of land, to any minister, public teacher or preacher of the gospel, as such, or to any religious sect, order or denomination, or to or for the support, use or benefit of, or in trust for any minister, public teacher or preacher of the gospel as such, or any religious sect, order or denomination, and every gift or sale of goods or chattels to go in succession, or to take place after the death of the seller or donor, to or for such support, use or benefit; and, also, every devise of goods or chattels, to or for the support, use or benefit of any minister, public teacher or preacher of the gospel, as such; or any religious sect, order or denomination, without the leave of the Legislature, shall be void; except always, any sale, gift, lease or devise of any quantity of land, not exceeding five acres, for a church, meeting house or other house of worship, or parsonage, or for a burying ground, which shall be improved, en-

joyed or used only for such purpose ; or such sale, gift, lease or devise shall be void.

ART. 36. That the manner of administering an oath or affirmation to any person, ought to be such as those of the religious persuasion, profession or denomination, of which he is a member, generally esteem the most effectual confirmation by the attestation of the Divine Being.

Administering of Oaths.

ART. 37. That the city of Annapolis ought to have all its rights, privileges and benefits, agreeably to its charter, and the acts of Assembly confirming and regulating the same ; subject to such alterations as have been or as may be made by the Legislature.

Rights of the City of Annapolis.

ART. 38. That the liberty of the press ought to be inviolably preserved.

Liberty of the Press.

ART. 39. That monopolies are odious, contrary to the spirit of a free government and the principles of commerce, and ought not to be suffered.

Monopolies.

ART. 40. That no title of nobility or hereditary honors ought to be granted in this State.

Titles of Nobility, &c.

ART. 41. That the Legislature ought to encourage the diffusion of knowledge and virtue, the promotion of literature, the arts, sciences, agriculture, commerce and manufactures, and the general melioration of the condition of the people.

Duties of the Legislature.

ART. 42. This enumeration of rights shall not be construed to impair or deny others retained by the people.

Rights of the People.

ART. 43. That this Constitution shall not be altered, changed, or abolished, except in the manner therein prescribed and directed.

Alteration of the Constitution.

THE CONSTITUTION.

ARTICLE I.

ELECTIVE FRANCHISE.

Qualifications of voters.

Vote by ballot.

Division of counties, &c.

Change of Residence.

SECTION 1. Every free white male person, of twenty-one years of age or upwards, who shall have been one year next preceding the election a resident of the State, and for six months a resident of the city of Baltimore, or of any county in which he may offer to vote, and being at the time of the election a citizen of the United States, shall be entitled to vote in the ward or election district in which he resides, in all elections hereafter to be held; and at all such elections the vote shall be taken by ballot. And in case any county or city shall be so divided as to form portions of different electoral districts for the election of Congressmen, Senator, delegate, or other officer or officers, then to entitle a person to vote for such officer, he must have been a resident of that part of the county or city which shall form a part of the electoral district in which he offers to vote, for six months next preceding the election; but a person who shall have acquired a residence in such county or city entitling him to vote at any such election, shall be entitled to vote in the election district from which he removed, until he shall have acquired a resi-

dence in the part of the county or city to which he has removed.

SEC. 2. That if any person shall give, or Bribery. offer to give, directly or indirectly, any bribe, present or reward, or any promise, or any security for the payment or delivery of money or any other thing, to induce any voter to refrain from casting his vote, or forcibly to prevent him in any way from voting, or to obtain or procure a vote for any candidate or person proposed or voted for, as elector of President and Vice-President of the United States, or representative in Congress, or for any office of profit or trust created by the Constitution or laws of this State, or by the ordinances or authority of the Mayor and City Council of Baltimore, the person giving or offering to give, and the person receiving the same, and any person who gives or causes to be given an illegal vote, knowing it to be so, at any election to be hereafter held in this State, shall, on conviction in a court of law, in addition to the penalties now or hereafter Penalties. to be imposed by law, be forever disqualified to hold any office of profit or trust, or to vote at any election thereafter.

SEC. 3. It shall be the duty of the General Assembly of Maryland to pass laws to punish Laws against illegal voting. with fine and imprisonment any person who shall remove into any election district or ward of the city of Baltimore, not for the purpose of acquiring a bona fide residence therein, but for the purpose of voting therein at an approaching election, or who shall vote in any election district or ward in which he does not 1853, ch. 133.

reside, (except in the case provided for in the first article of the Constitution,) or shall, at the same election, vote in more than one election district or ward, or shall vote or offer to vote, in any name not his own, or in place of any other person of the same name, or shall vote in any county in which he does not reside.

Oath of Office.

1852, ch. 172.

1854, ch. 18.

4 Md. 189.

SEC. 4. Every person elected or appointed to any office of profit or trust under the Constitution or laws made pursuant thereto, before he shall enter upon the duties of such office shall take and subscribe the following oath or affirmation: I, A. B., do swear (or affirm, as the case may be,) that I will support the Constitution of the United States, and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of ——— according to the Constitution and laws of this State, and that since the adoption of the present Constitution, I have not, in any manner, violated the provisions thereof in relation to bribery of voters or preventing legal or procuring illegal votes to be given; (and if a Governor, Senator, member of the House of Delegates, or Judge,) “that I will not directly or indirectly receive the profits or any part of the profits of any other office during the time of my acting as ———.” And if any person elected or appointed to office as aforesaid, shall refuse or neglect to take the said oath or affirmation, he shall be considered as having refused to accept the said office, and a new election

or appointment shall be made as in case of refusal or resignation, and any person swearing or affirming falsely in the premises, shall, on conviction thereof in a court of law, incur the penalties for wilful and corrupt perjury, and be thereafter incapable of voting at any election, and also incapable of holding any office of profit or trust in this State.

SEC. 5. That no person above the age of twenty-one years, convicted of larceny or other infamous crime, unless he shall be pardoned by the Executive, shall ever thereafter be entitled to vote at any election in this State, and no person under guardianship as a lunatic, or as a person non compos mentis, shall be entitled to vote.

Persons disqualified to vote.

ARTICLE II.

EXECUTIVE DEPARTMENT.

SECTION 1. The Executive power of the State shall be vested in a Governor, whose term of office shall commence on the second Wednesday of January next ensuing his election, and continue for four years, and until his successor shall have qualified.

The Governor; his term of Office.

SEC. 2. The first election for Governor under this Constitution shall be held on the first Wednesday in November, in the year eighteen hundred and fifty-three, and on the same day and month in every fourth year thereafter, at the places of voting for delegates to the General Assembly, and every person qualified to vote for delegates shall be qualified and entitled

Time, place, and manner of electing Governor.

to vote for Governor ; the election to be held in the same manner as the election of delegates, and the returns thereof, under seal, to be addressed to the Speaker of the House of Delegates, and enclosed and transmitted to the Secretary of State, and delivered to the said Speaker at the commencement of the session of the Legislature next ensuing said election.

1853, ch. 134.

Plurality of votes to elect.

SEC. 3. The Speaker of the House of Delegates shall then open the said returns, in the presence of both Houses, and the person having the highest number of votes, and being constitutionally eligible, shall be the Governor, and shall qualify in the manner herein prescribed, on the second Wednesday of January next ensuing his election, or as soon thereafter as may be practicable.

In case of a tie General Assembly to choose.

SEC. 4. If two or more persons shall have the highest and an equal number of votes, one of them shall be chosen Governor by the Senate and House of Delegates ; and all questions in relation to the eligibility of Governor, and to the returns of said election, and to the number and legality of votes therein given, shall be determined by the House of Delegates. And if the person, or persons, having the highest number of votes be ineligible, the Governor shall be chosen by the Senate and House of Delegates. Every election of Governor, by the Legislature, shall be determined by a joint majority of the Senate and House of Delegates, and the vote shall be taken viva voce. But if two or more persons shall have the highest and an equal number of votes, then a second vote shall be taken, which shall be con-

House of Delegates to determine questions of eligibility, &c.

In case of ineligibility General Assembly to choose.

Vote jointly viva voce.

Mode of Voting in case of a tie.

fined to the persons having an equal number ; and if the votes should be again equal, then the election of Governor shall be determined by lot between those who shall have the highest and an equal number on the first vote.

SEC. 5. The State shall be divided into three districts ; St. Mary's, Charles, Calvert, Prince George's, Anne Arundel, Montgomery, and Howard counties, and the city of Baltimore, to be the first ; the eight counties of the Eastern Shore to be the second ; and Baltimore, Harford, Frederick, Washington, Allegany and Carroll counties to be the third. The Governor, elected from the third district, in October last, shall continue in office during the term for which he was elected. The Governor shall be taken from the first district, at the first election of Governor under this Constitution ; from the second district at the second election, and from the third district at the third election, and in like manner, afterwards, from each district in regular succession.

State divided into three Gubernatorial Districts, from which the Governor to be chosen in succession.

SEC. 6. A person to be eligible to the office of Governor, must have attained the age of thirty years, and been for five years a citizen of the United States, and for five years next preceding his election a resident of the State, and for three years a resident of the district from which he was elected.

Qualification of Governor.

SEC. 7. In case of the death or resignation of the Governor, or of his removal from the State, the General Assembly, if in session, or if not, at their next session, shall elect some other qualified resident of the same district, to

In case of death, &c., General Assembly to elect.

be the Governor for the residue of the term for which the said Governor had been elected.

In case of vacancy during recess of Legislature—President of the Senate to act as Governor—or if he do not act, then the Speaker of the House of Delegates to act.

Legislature to provide for Impeachment and for cases of vacancy not provided for.

SEC. 8. In case of any vacancy in the office of Governor during the recess of the Legislature, the President of the Senate shall discharge the duties of said office till a Governor is elected as herein provided for; and in case of the death or resignation of said President, or of his removal from the State, or of his refusal to serve, then the duties of said office shall, in like manner, and for the same interval, devolve upon the Speaker of the House of Delegates, and the Legislature may provide by law for the case of impeachment or inability of the Governor, and declare what person shall perform the executive duties during such impeachment or inability; and for any vacancy in said office not herein provided for, provision may be made by law, and if such vacancy should occur without such provision being made, the Legislature shall be convened by the Secretary of State for the purpose of filling said vacancy.

Governor to be Commander-in-chief; but not to take the command in person.

SEC. 9. The Governor shall be commander-in-chief of the land and naval forces of the State, and may call out the militia to repel invasions, suppress insurrections, and enforce the execution of the laws; but shall not take the command in person without the consent of the Legislature.

His Duties.

SEC. 10. He shall take care that the laws be faithfully executed.

Appointment of Officers.

SEC. 11. He shall nominate, and by and with the advice and consent of the Senate, appoint all civil and military officers of the State, whose

appointment or election is not otherwise herein provided for, unless a different mode of appointment be prescribed by the law creating the office.

SEC. 12. In case of any vacancy during the recess of the Senate in any office which the Governor has power to fill, he shall appoint some suitable person to said office, whose commission shall continue in force till the end of the next session of the Legislature, or till some other person is appointed to the same office, which ever shall first occur, and the nomination of the person thus appointed during the recess, or of some other person in his place, shall be made to the Senate, within thirty days after the next meeting of the Legislature.

Appointments during recess of Legislature.

2 Md. 341.

SEC. 13. No person, after being rejected by the Senate, shall be again nominated for the same office at the same session, unless at the request of the Senate; or be appointed to the same office during the recess of the Legislature.

Persons rejected not to be appointed.

SEC. 14. All civil officers appointed by the Governor and Senate, shall be nominated to the Senate within fifty days from the commencement of each regular session of the Legislature; and their term of office shall commence on the first Monday of May next ensuing their appointment, and continue for two years (unless sooner removed from office) and until their successors respectively qualify according to law.

Time of Nomination.

Term of Office.

SEC. 15. The Governor may suspend or arrest any military officer of the State, for disobedience of orders, or other military offence, and may remove him in pursuance of the sen-

Courts-Martial.

tence of a court-martial; and may remove, for incompetency or misconduct, all civil officers who receive appointments from the Executive for a term of years.

Extra Sessions of
the Legislature.

SEC. 16. The Governor may convene the Legislature, or the Senate alone, on extraordinary occasions; and whenever, from the presence of an enemy or from any other cause, the seat of government shall become an unsafe place for the meeting of the Legislature, he may direct their sessions to be held at some other convenient place.

Governor to ex-
amine Treasury
accounts.

SEC. 17. It shall be the duty of the Governor semi-annually, and oftener if he deem it expedient, to examine the bank-book, account books, and official proceedings of the Treasurer and Comptroller of the State.

Governor to re-
commend mea-
sures to Legisla-
ture.

SEC. 18. He shall from time to time inform the Legislature of the condition of the State, and recommend to their consideration such measures as he may judge necessary and expedient.

Pardoning Power

SEC. 19. He shall have power to grant reprieves and pardons, except in cases of impeachment, and in cases in which he is prohibited by other articles of this Constitution, and to remit fines and forfeitures for offences against the State; but shall not remit the principal or interest of any debt due to the State, except in cases of fines and forfeitures; and before granting a nolle prosequi, or pardon, he shall give notice in one or more newspapers, of the application made for it, and of the day on or after which his decision will be given; and in every case in which he exercises this

power, he shall report to either branch of the Legislature, whenever required, the petitions, recommendations and reasons which influence his decision.

SEC. 20. The Governor shall reside at the seat of Government, and shall receive for his services an annual salary of thirty-six hundred dollars.

Governor's residence and salary.

SEC. 21. When the public interest requires it, he shall have power to employ counsel, who shall be entitled to such compensation as the Legislature may allow in each case, after the services of such counsel shall have been performed.

May employ Counsel.

SEC. 22. A Secretary of State shall be appointed by the Governor, by and with the advice and consent of the Senate, who shall continue in office, unless sooner removed by the Governor, till the end of the official term of the Governor from whom he received his appointment, and shall receive an annual salary of one thousand dollars.

Secretary of State.

1853, ch. 448.

SEC. 23. He shall carefully keep and preserve a record of all official acts and proceedings, (which may, at all times, be inspected by a committee of either branch of the Legislature,) and shall perform such other duties as may be prescribed by law, or as may properly belong to his office.

His Duties.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

Two branches of
the Legislature—
Its style.

SECTION 1. The Legislature shall consist of two distinct branches, a Senate and a House of Delegates, which shall be styled "The General Assembly of Maryland."

Election of Sena-
tors.

SEC. 2. Every county of the State, and the city of Baltimore, shall be entitled to elect one Senator, who shall be elected by the qualified voters of the counties and city of Baltimore, respectively, and who shall serve for four years from the day of their election.

Their term of
Office.

Apportionment
of Members of
House of Dele-
gates.

SEC. 3. The Legislature at its first session after the returns of the national census of eighteen hundred and sixty are published, and in like manner after each subsequent census, shall apportion the members of the House of Delegates among the several counties of the State, according to the population of each, and shall always allow to the city of Baltimore four more Delegates than are allowed to the most populous county, but no county shall be entitled to less than two members, nor shall the whole number of delegates ever exceed eighty, or be less than sixty-five; and until the apportionment is made under the census of eighteen hundred and sixty; St. Mary's county shall be entitled to two delegates; Kent, two; Anne Arundel, three; Calvert, two; Charles, two; Baltimore county, six; Talbot, two; Somerset, four; Dorchester, three; Cecil, three; Prince George's, three; Queen Anne's,

two; Worcester, three; Frederick, six; Harford, three; Caroline, two; Baltimore city, ten; Washington, five; Montgomery, two; Allegany, four; Carroll, three, and Howard, two.

SEC. 4. The members of the House of Delegates shall be elected by the qualified voters of the counties and city of Baltimore respectively, to serve for two years from the day of their election.

Election of Delegates.

Their term of Office.

SEC. 5. The first election for delegates shall take place on the first Wednesday of November, eighteen hundred and fifty-one; and the elections for delegates and for one-half of the Senators, as nearly as practicable, shall be held on the same day in every second year thereafter, but an election for Senators shall be held in the year eighteen hundred and fifty-one, in Howard county, and all those counties in which senators were elected in the year eighteen hundred and forty-six.

Time of Elections.

SEC. 6. Immediately after the Senate shall have convened after the first election under this Constitution, the Senators shall be divided, by lot, into two classes, as nearly equal in number as may be—the Senators of the first class shall go out of office at the expiration of two years, and Senators shall be elected on the first Wednesday of November, eighteen hundred and fifty-three, for the term of four years, to supply their places; so that, after the first election, one-half of the Senators may be chosen every second year; provided, that in no case shall any Senator be placed in a class which shall entitle him to serve for a longer term than that for which he was elected. In case the num-

Classification of Senators.

ber of Senators be hereafter increased, such classification of the additional Senators shall be made as to preserve as nearly as may be an equal number in each class.

Time of Meetings
of the General
Assembly. Their
Sessions biennial

SEC. 7. The General Assembly shall meet on the first Wednesday of January, eighteen hundred and fifty two, on the same day, in the year eighteen hundred and fifty-three, and on the same day in the year eighteen hundred and fifty-four, and on the same day in every second year thereafter, and at no other time unless convened by the proclamation of the Governor.

Time of adjourn-
ment.

SEC. 8. The General Assembly may continue their first two sessions after the adoption of this Constitution, as long as, in the opinion of the two Houses, the public interests may require it, but all subsequent regular sessions of the General Assembly shall be closed on the tenth day of March next ensuing the time of their commencement, unless the same shall be closed at an earlier day by the agreement of the two Houses.

Qualifications of
Senators and De-
legates.

SEC. 9. No person shall be eligible as a Senator or Delegate who, at the time of his election, is not a citizen of the United States, and who has not resided at least three years next preceding the day of his election in this State, and the last year thereof in the county or city which he may be chosen to represent, if such county or city shall have been so long established, and if not, then in the county from which, in whole or in part, the same may have been formed; nor shall any person be eligible as a Senator unless he shall have attained the age of twenty-five years, nor as a delegate un-

less he shall have attained the age of twenty-one years at the time of his election.

SEC. 10. No member of Congress, or person holding any civil or military office under the United States, shall be eligible as a senator or delegate; and if any person shall, after his election as a Senator or Delegate, be elected to Congress, or be appointed to any office, civil or military, under the government of the United States, his acceptance thereof shall vacate his seat.

Persons ineligible
as Senators or
Delegates.

1853, ch. 280.

SEC. 11. No Minister or Preacher of the Gospel, of any denomination, and no person holding any civil office of profit or trust under this State, except Justices of the Peace, shall be eligible as Senator or Delegate.

Same.

SEC. 12. Each House shall be judge of the qualifications and elections of its members, subject to the laws of the State—appoint its own officers, determine the rules of its own proceedings, punish a member for disorderly or disrespectful behaviour, and with the consent of two-thirds, expel a member; but no member shall be expelled a second time for the same offence.

Powers of each
House.

SEC. 13. A majority of each House shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each House may prescribe.

Quorum.

SEC. 14. The doors of each House and of committees of the whole shall be open, except when the business is such as ought to be kept secret.

Sessions to be
open.

Journals to be
published.

Yeas and Nays.
1853, ch. 36.

Special Adjourn-
ments.

Style of Laws.

Mode of their
enactment.

Codification of
Laws.
1852, Res. 4.

Amendments.

Additions.

SEC. 15. Each House shall keep a journal of its proceedings, and cause the same to be published. The yeas and nays of members on any question shall, at the call of any five of them, in the House of Delegates, or one in the Senate, be entered on the journal.

SEC. 16. Neither House shall, without the consent of the other, adjourn for more than three days; nor to any other place than that in which the House shall be sitting, without the concurrent vote of two-thirds of the members present.

SEC. 17. The style of all laws of this State shall be, "Be it enacted by the General Assembly of Maryland," and all laws shall be passed by original bill, and every law enacted by the Legislature shall embrace but one subject, and that shall be described in the title, and no law or section of law shall be revived, amended or repealed by reference to its title or section only; and it shall be the duty of the Legislature, at the first session after the adoption of this Constitution, to appoint two commissioners learned in the law, to revise and codify the laws of this State; and the said commissioners shall report the said code, so formed, to the Legislature, within a time to be by it determined, for its approval, amendment, or rejection; and if adopted, after the revision and codification of the said laws, it shall be the duty of the Legislature, in amending any article or section thereof, to enact the same as the said article or section would read when amended. And whenever the Legislature shall enact any public general law, not amendatory of any sec-

tion or article in the said code, it shall be the duty of the Legislature to enact the same in articles and sections, in the same manner as the said code may be arranged; and to provide for the publication of all additions and alterations which may be made to the said code, and it shall also be the duty of the Legislature to appoint one or more commissioners learned in the law, whose duty it shall be to revise, simplify, and abridge the rules of practice, pleadings, forms of conveyancing, and proceedings of the Courts of record in this State.

Rules of Practice,
Pleading and
Conveyancing
to be revised.
1852, Res. 14.

SEC. 18. Any bill may originate in either House of the General Assembly, and be altered, amended or rejected by the other; but no bill shall originate in either House during the last three days of the session, or become a law, until it be read on three different days of the session in each House, unless three-fourths of the members of the House, where such bill is pending, shall so determine.

Either House
may originate
Bills.

SEC. 19. No bill shall become a law unless it be passed in each House by a majority of the whole number of members elected, and on its final passage the ayes and noes be recorded.

Passage of Bills.

SEC. 20. No money shall be drawn from the Treasury of the State, except in accordance with an appropriation made by law, and every such law shall distinctly specify the sum appropriated, and the object to which it shall be applied, provided that nothing herein contained shall prevent the Legislature from placing a contingent fund at the disposal of the Executive, who shall report to the Legislature at each session the amount expended and the

Appropriations
of money to be
made by law.

4 Md. 189.

Contingent fund.

Statement of
Receipts and
Expenditures to
be published.

1854, ch. 16.

purposes to which it was applied; an accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws after each regular session of the General Assembly.

Divorces not to
be granted by Ge-
neral Assembly.
2 Md. 429.

SEC. 21. No divorce shall be granted by the General Assembly.

No debts to be
contracted by the
Legislature.

SEC. 22. No debt shall hereafter be contracted by the Legislature, unless such debt shall be authorized by a law providing for the collection of an annual tax or taxes sufficient to pay the interest on such debt as it falls due, and also to discharge the principal thereof within fifteen years from the time of contracting the same, and the taxes laid for this purpose shall not be repealed or applied to any other object until the said debt and the interest thereon shall be fully discharged, and the amount of debts so contracted and remaining unpaid shall never exceed one hundred thousand dollars. The credit of the State shall not, in any manner, be given or loaned to or in aid of any individual, association or corporation, nor shall the General Assembly have the power, in any mode, to involve the State in the construction of works of internal improvement, or in any enterprize which shall involve the faith or credit of the State, or make any appropriations therefor. And they shall not use or appropriate the proceeds of the internal improvement companies, or of the State Tax now levied, or which may hereafter be levied, to pay off the public debt, to any other purpose, until the interest and debt are fully paid, or the sinking fund shall be equal to the amount of the out-

The Credit of the
State not to be
given.

Proceeds of In-
ternal Improve-
ment Companies
and State Tax to
be used to pay
Public Debt.

standing debt; but the Legislature may, without laying a tax, borrow an amount never to exceed fifty thousand dollars, to meet temporary deficiencies in the Treasury, and may contract debts to any amount that may be necessary for the defence of the State.

Temporary Deficiencies.

Defence of the State.

SEC. 23. No extra compensation shall be granted or allowed by the General Assembly to any public officer, agent, servant or contractor, after the services shall have been rendered or the contract entered into. Nor shall the salary or compensation of any public officer be increased or diminished during his term of office.

No extra Compensation or Increase of Salary to be allowed.

SEC. 24. No Senator or Delegate, after qualifying as such, shall, during the term for which he was elected, be eligible to any office which shall have been created, or the salary or profits of which shall have been increased during such term, or shall, during said term, hold any office or receive the salary or profits of any office, under the appointment of the Executive or Legislature.

Disqualification of Senators and Delegates to hold certain offices.

SEC. 25. Each House may punish by imprisonment, during the session of the General Assembly, any person not a member, for disrespectful or disorderly behaviour in its presence, or for obstructing any of its proceedings or any of its officers in the execution of their duties; *provided*, such imprisonment shall not, at any one time, exceed ten days.

Each House may imprison for disrespect.

SEC. 26. The members of each House shall, in all cases, except treason, felony, or other criminal offence, be privileged from arrest during their attendance at the session of the Gen-

Exemption from Arrest.

eral Assembly, and in going to and returning from the same, allowing one day for every thirty miles such member may reside from the place at which the General Assembly is convened.

No liability for words spoken in debate.

SEC. 27. No Senator or Delegate shall be liable, in any civil action or criminal prosecution whatever, for words spoken in debate.

Powers of the House of Delegates.

SEC. 28. The House of Delegates may inquire, on the oath of witnesses, into all complaints, grievances and offences, as the Grand Inquest of the State, and may commit any person for any crime to the public jail, there to remain until discharged by due course of law—they may examine and pass all accounts of the State, relating either to the collection or expenditure of the revenue, and appoint auditors to state and adjust the same—they may call for all public or official papers, and records, and send for persons whom they may judge necessary in the course of their inquiries concerning affairs relating to the public interest, and may direct all office bonds which shall be made payable to the State, to be sued for any breach of duty.

Provision for vacancies in office of Senator or Delegate.

SEC. 29. In case of death, disqualification, resignation, refusal to act, expulsion or removal from the county or city for which he shall have been elected, of any person who shall have been chosen as a Delegate or Senator, or in case of a tie between two or more such qualified persons, a warrant of election shall be issued by the Speaker of the House of Delegates or President of the Senate, as the case may be, for the election of another person in his place, of which election, not less than ten days notice shall be

given, exclusive of the day of the publication of the notice and of the day of election; and in case of such resignation or refusal to act, being communicated in writing, to the Governor, by the person making it, or if such death occur during the legislative recess and more than ten days before its termination, it shall be the duty of the Governor to issue a warrant of election to supply the vacancy thus created in the same manner that the said Speaker or President might have done during the session of the Legislature; provided, however, that unless a meeting of the General Assembly may intervene, the election thus ordered to fill such vacancy shall be held on the day of the ensuing election for Delegates and Senators.

SEC. 30. The Senators and Delegates shall receive a per diem of four dollars, and such mileage as may be allowed by law, and the presiding officer of each House shall be allowed an addition of one dollar per day. No book or other printed matter not appertaining to the business of the session, shall be purchased or subscribed for, for the use of the members or be distributed among them, at the public expense.

Compensation of
Senators and De-
legates.

Books not to be
purchased.

SEC. 31. No law passed by the General Assembly shall take effect until the first day of June next after the session at which it may be passed, unless it be otherwise expressly declared therein.

When Laws to
take effect.

SEC. 32. No law shall be passed creating the office of Attorney General.

Office of Attor-
ney General abo-
lished.

SEC. 33. The General Assembly shall have full power to exclude from the privilege of voting at elections, or of holding any civil or mili-

General Assem-
bly may disfran-
chise certain per-
sons.

tary office in this State, any person who may thereafter be convicted of perjury, bribery, or other felony, unless such person shall have been pardoned by the Executive.

Mode of Attesting Laws.

Laws to be Recorded and certified to Courts.

Defaulting Collectors to be ineligible as Senators or Delegates.

Duellists ineligible to office.

Lotteries prohibited.

Wife's property to be protected. 1853 ch. 245. 1853, ch. 335.

SEC. 34. Every bill, when passed by the General Assembly, and sealed with the Great Seal, shall be presented to the Governor, who shall sign the same in the presence of the presiding officers and chief clerks of the Senate and House of Delegates. Every law shall be recorded in the office of the Court of Appeals, and in due time be printed, published and certified under the Great Seal to the several courts in the same manner as has been heretofore usual in this State.

SEC. 35. No person who may hereafter be a collector, receiver or holder of public moneys, shall be eligible as Senator or Delegate, or to any office of profit or trust under this State, until he shall have accounted for and paid into the treasury all sums on the books thereof, charged to and due by him.

SEC. 36. Any citizen of this State who shall, after the adoption of this Constitution, either in or out of this State, fight a duel with deadly weapons, or send or accept a challenge so to do, or who shall act as a second, or knowingly aid or assist in any manner those thus offending, shall ever thereafter be incapable of holding any office of trust or profit under this State.

SEC. 37. No lottery grant shall ever hereafter be authorized by the Legislature.

SEC. 38. The General Assembly shall pass laws necessary to protect the property of the wife, from the debts of the husband during

her life, and for securing the same to her issue after her death.

SEC. 39. Laws shall be passed by the Legislature to protect from execution a reasonable amount of property of a debtor, not exceeding in value the sum of five hundred dollars. Exemption Laws

SEC. 40. The Legislature shall, at its first session after the adoption of this Constitution, adopt some simple and uniform system of charges in the offices of clerks of courts and registers of wills in the counties of this State and the city of Baltimore, and for the collection thereof; provided, the amount of compensation to any of said officers shall not exceed the sum of twenty-five hundred dollars a year, over and above office expenses, and compensation to assistants; and provided, further, that such compensation of clerks, registers, assistants and office expenses, shall always be paid out of the fees or receipts of the offices respectively. Compensation of Clerks and Registers.
1852. ch. 308.

SEC. 41. The House of Delegates shall have the sole power of impeachment in all cases, but a majority of all the members must concur in an impeachment; all impeachments shall be tried by the Senate, and when sitting for that purpose they shall be on oath or affirmation to do justice according to the law and evidence, but no person shall be convicted without the concurrence of two-thirds of all the Senators. Impeachment.

SEC. 42. That it shall be the duty of the Legislature so soon as the public debt shall have been fully paid off, to cause to be transferred to the several counties and the city of Baltimore, stock in the internal improvement Internal Improvement Companies.

companies, equal to the amount respectively paid by each towards the erection and completion of said works, at the then market value of said stock.

Master and Slave

SEC. 43. The Legislature shall not pass any law abolishing the relation of master or slave, as it now exists in this State.

No Imprisonment for Debt.
5 Md. 337.

SEC. 44. No person shall be imprisoned for debt.

Banks not to be chartered.
1853, ch. 441.
1854, ch. 152.

SEC. 45. The Legislature hereafter shall grant no charter for banking purposes or renew any banking corporation now in existence, except upon the condition that the stockholders and directors shall be liable to the amount of their respective share or shares of stock in such banking institution for all its debts and liabilities upon note, bill or otherwise; and upon the further condition that no director or other officer of said corporation shall borrow any money from said corporation; and if any director or other officer shall be convicted upon indictment of directly or indirectly violating this article, he shall be punished by fine or imprisonment at the discretion of the Court. All banks shall be open to inspection of their books, papers and accounts, under such regulations as may be prescribed by law.

Provisions relating to Banks.

Private Property taken for Public use to be paid for.

SEC. 46. The Legislature shall enact no law authorizing private property to be taken for public use without just compensation as agreed upon between the parties or awarded by a jury, being first paid or tendered to the party entitled to such compensation.

Corporations to be provided for by General Laws.

SEC. 47. Corporations may be formed under general laws, but shall not be created by spe-

cial act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the object of the corporation cannot be attained under general laws. All laws and special acts pursuant to this section may be altered from time to time, or repealed; *provided*, nothing herein contained shall be construed to alter, change or amend in any manner the article in relation to Banks.

1852, ch. 231.

1853, ch. 320.

SEC. 48. The Legislature shall make provision for all cases of contested elections of any of the officers not herein provided for.

Contested Elections.

1853, ch. 244.

SEC. 49. That the rate of interest in this State shall not exceed six per cent. per annum, and no higher rate shall be taken or demanded, and the Legislature shall provide, by law, all necessary forfeitures and penalties against usury.

Rate of Interest.

ARTICLE IV.

JUDICIARY DEPARTMENT.

SECTION 1. The Judicial power of this State shall be vested in a Court of Appeals, in Circuit Courts, in such Courts for the city of Baltimore as may be hereinafter prescribed, and in Justices of the Peace.

The Judicial Power—how vested.

SEC. 2. The Court of Appeals shall have appellate jurisdiction only, which shall be co-extensive with the limits of the State. It shall consist of a chief justice and three associate justices, any three of whom shall form a quorum, whose judgment shall be final and conclusive in all cases of appeals; and who shall

Court of Appeals, its jurisdiction and constitution.

Reports of Decisions to be published.

1852, ch. 55.
do. 351.
1854, Res. 5.

Time and place of meeting.

Clerk of Court of Appeals.

State divided into four Judicial Districts.

One Judge of Court of Appeals to be elected from each district. His Qualifications.

have the jurisdiction which the present Court of Appeals of this State now has, and such other appellate jurisdiction as hereafter may be provided for by law. And in every case decided, an opinion, in writing, shall be filed, and provision shall be made, by law, for publishing reports of cases argued and determined in the said Court. The Governor, for the time being, by and with the advice and consent of the Senate, shall designate the chief justice, and the Court of Appeals shall hold its sessions at the city of Annapolis, on the first Monday of June, and the first Monday of December, in each and every year.

SEC. 3. The Court of Appeals shall appoint its own clerk, who shall hold his office for six years, and may be re-appointed at the end thereof; he shall be subject to removal by the said court for incompetency, neglect of duty, misdemeanor in office, and for such other causes as may be prescribed by law.

SEC. 4. The State shall be divided into four Judicial districts: Allegany, Washington, Frederick, Carroll, Baltimore and Harford counties, shall compose the first; Montgomery, Howard, Anne Arundel, Calvert, St. Mary's, Charles and Prince George's, the second; Baltimore city, the third; and Cecil, Kent, Queen Anne's, Talbot, Caroline, Dorchester, Somerset and Worcester, shall compose the fourth district. And one person from among those learned in the law, having been admitted to practice in this State, and who shall have been a citizen of this State at least five years, and above the age of thirty years at the time of his

election, and a resident of the judicial district, shall be elected from each of said districts by the legal and qualified voters therein, as a Judge of the said Court of Appeals, who shall hold his office for the term of ten years from the time of his election, or until he shall have attained the age of seventy years, which ever may first happen, and be re-eligible thereto until he shall have attained the age of seventy years, and not after, subject to removal for incompetency, wilful neglect of duty or misbehaviour in office, on conviction in a court of law, or by the Governor upon the address of the General Assembly, two-thirds of the members of each House concurring in such address; and the salary of each of the Judges of the Court of Appeals shall be two thousand five hundred dollars annually, and shall not be increased or diminished during their continuance in office; and no fees or perquisites of any kind shall be allowed by law to any of the said Judges.

1852, ch. 82.

Term of Office.

Salary.

1 Md. 368.

SEC. 5. No judge of the Court of Appeals shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity within such degrees as may be prescribed by law, or when he shall have been of counsel in said case; when the Court of Appeals, or any of its members shall be thus disqualified to hear and determine any case or cases in said court, so that by reason thereof no judgment can be rendered in said court, the same shall be certified to the Governor of the State, who shall immediately commission the requisite

Judges of Court of Appeals disqualified in certain cases.

1852, ch. 263.

Governor to appoint others to try such cases.

number of persons learned in the law for the trial and determination of said case or cases.

Judges to be conservators of the Peace.

SEC. 6. All Judges of the Court of Appeals, of the Circuit Courts, and of the Courts for the city of Baltimore, shall, by virtue of their offices, be conservators of the peace throughout the State.

Style of Commissions, Writs, Indictments, &c.

SEC. 7. All public commissions and grants shall run thus: "The State of Maryland," &c., and shall be signed by the Governor, with the Seal of the State annexed; all writs and process shall run in the same style, and be tested, sealed and signed as usual; and all indictments shall conclude "against the peace, government and dignity of the State."

State divided into eight Judicial Circuits.

SEC. 8. The State shall be divided into eight Judicial Circuits, in manner and form following, to wit: St. Mary's, Charles and Prince George's counties shall be the first; Anne Arundel, Howard, Calvert and Montgomery counties shall be the second; Frederick and Carroll counties shall be the third; Washington and Allegany counties shall be the fourth; Baltimore city shall be the fifth; Baltimore, Harford and Cecil counties shall be the sixth; Kent, Queen Anne's, Talbot and Caroline counties shall be the seventh; and Dorchester, Somerset and Worcester counties shall be the eighth; and there shall be elected as hereinafter directed for each of the said judicial circuits, except the fifth, one person from among those learned in the law, having been admitted to practice in this State, and who shall have been a citizen of this State at least five years, and above the age of thirty years at the time

One Judge to be elected for each Circuit.

His Qualifications.

of his election, and a resident of the judicial circuit, to be Judge thereof; the said Judges shall be styled Circuit Judges, and shall respectively hold a term of their courts at least twice in each year, or oftener if required by law, in each county composing their respective circuits; and the said courts shall be called Circuit Courts for the county in which they may be held, and shall have and exercise in the several counties of this State, all the power, authority and jurisdiction which the county courts of this State now have and exercise, or which may hereafter be prescribed by law, and the said Judges in their respective circuits, shall have and exercise all the power, authority and jurisdiction of the present Court of Chancery of Maryland; *Provided*, nevertheless, that Baltimore County Court may hold its sittings within the limits of the city of Baltimore, until provision shall be made by law for the location of a county seat within the limits of the said county proper, and the erection of a court house and all other appropriate buildings, for the convenient administration of justice in said court.

SEC. 9. The judges of the several judicial circuits shall be citizens of the United States, and shall have resided five years in this State, and two years in the judicial circuit for which they may be respectively elected, next before the time of their election, and shall reside therein while they continue to act as judges; they shall be taken from among those who having the other qualifications herein prescribed, are most distinguished for integrity, wis-

Terms of the Courts.

1852, ch. 34.
do. 46.
do. 50.
do. 51.
do. 74.
do. 95.
do. 154.
do. 214.
do. 215.
1853, ch. 198.
do. 242.
do. 243.
1854, ch. 19.
do. 135.

Jurisdiction.

1852, ch. 16.
do. 31.
do. 75.
do. 111.
do. 136.
do. 219.
do. 336.
do. 344.
1853, ch. 181.
do. 238.
do. 406.
2 Md., 274.

Baltimore County Court.

1852, ch. 17.
do. 18.
do. 86.

Qualifications of Judges of Circuit Courts.

dom and sound legal knowledge, and shall be elected by the qualified voters of the said circuits, and shall hold their offices for the term of ten years, removable for misbehaviour, on conviction in a court of law or by the Governor, upon the address of the General Assembly, provided that two-thirds of the members of each House shall concur in such address, and the said judges shall each receive a salary of two thousand dollars a year, and the same shall not be increased or diminished during the time of their continuance in office ; and no judge of any court in this State, shall receive any perquisite, fee, commission or reward, in addition thereto, for the performance of any judicial duty.

Court of Common Pleas.

Its Jurisdiction.

1852, ch. 159.
do. 251.
1853, ch. 238.
5 Md. 337.

SEC. 10. There shall be established for the city of Baltimore one court of law, to be styled "the Court of Common Pleas," which shall have civil jurisdiction in all suits where the debt or damage claimed shall be over one hundred dollars, and shall not exceed five hundred dollars ; and shall, also, have jurisdiction in all cases of appeal from the judgment of justices of the peace in the said city, and shall have jurisdiction in all applications for the benefit of the insolvent laws of this State, and the supervision and control of the trustees thereof.

Superior Court.

Its Jurisdiction.

1852, ch. 198.
do. 227.
do. 313.
do. 323.
1853, ch. 451.

SEC. 11. There shall also be established, for the city of Baltimore, another court of law, to be styled "the Superior Court of Baltimore City," which shall have jurisdiction over all suits where the debt or damage claimed shall exceed the sum of five hundred dollars, and in case any plaintiff or plaintiffs shall recover less

than the sum or value of five hundred dollars, he or they shall be allowed or adjudged to pay costs in the discretion of the court. The said court shall also have jurisdiction as a Court of Equity within the limits of the said city, and in all other civil cases which have not been heretofore assigned to the Court of Common Pleas.

SEC. 12. Each of the said two courts shall consist of one judge, who shall be elected by the legal and qualified voters of the said city, and shall hold his office for the term of ten years, subject to the provisions of this Constitution, with regard to the election and qualification of judges and their removal from office, and the salary of each of the said judges shall be twenty-five hundred dollars a year; and the Legislature shall, whenever it may think the same proper and expedient, provide, by law, another court for the city of Baltimore, to consist of one judge to be elected by the qualified voters of the said city, who shall be subject to the same constitutional provisions, hold his office for the same term of years, and receive the same compensation as the judge of the Court of Common Pleas of the said city, and the said court shall have such jurisdiction and powers as may be prescribed by law.

SEC. 13. There shall also be a Criminal Court for the city of Baltimore, to be styled "the Criminal Court of Baltimore," which shall consist of one judge, who shall also be elected by the legal and qualified voters of the said city, and who shall have and exercise all the jurisdiction now exercised by Baltimore City Court, and the said judge shall receive a salary of two

Constitution of
Baltimore Courts
for civil cases.

Qualification and
Term of Office of
the Judges.

Their Salary.

Another Court.

1853, ch. 122.
do. 391.

Criminal Court of
Baltimore.

1863, ch. 33.

Its Jurisdiction.

1852, ch. 344.

Salary, Qualifications, &c., of Judge.

thousand dollars a year and shall be subject to the provisions of this Constitution with regard to the election and qualifications of judges, term of office, and removal therefrom.

Clerk of Circuit Court.

1853, ch. 134.

His Election and Term of Office.

SEC. 14. There shall be in each county a Clerk of the Circuit Court, who shall be elected by the qualified voters of each county, and the person receiving the greatest number of votes shall be declared and returned duly elected Clerk of said Circuit Court for the said county, and shall hold his office for the term of six years from the time of his election, and until a new election is held; shall be re-eligible thereto, and subject to removal for wilful neglect of duty, or other misdemeanor in office, on conviction in a court of law. There shall

Clerks of Court of Com'n Pleas, of Super'r Court, and of Criminal Court.

Their Election and Term of Office.

also be a Clerk of the Court of Common Pleas in Baltimore city, and a Clerk of the Superior Court of Baltimore city, and there shall also be a Clerk of the Criminal Court of Baltimore city, and each of the said clerks shall be elected as aforesaid by the qualified voters of the city of Baltimore, and shall hold his office for six years from the time of his election, and until a new election is held, and be re-eligible thereto, subject, in like manner, to be removed for wilful neglect of duty or other misdemeanor in office, on conviction in a court of law. In

Vacancies.

case of a vacancy in the office of a clerk, the judge or judges of the court, of which he was clerk, shall have the power to appoint a clerk until the general election of delegates held next thereafter, when a clerk shall be elected to fill such vacancy.

SEC. 15. The Clerk of the Court of Common Pleas for Baltimore city, shall have authority to issue within the said city, all marriage and other licenses required by law, subject to such provisions as the Legislature shall hereafter prescribe; and the Clerk of the Superior Court for said city, shall have the custody of all deeds, conveyances, and other papers now remaining in the office of the clerk of Baltimore county court, and shall hereafter receive and record all deeds, conveyances, and other papers which are required by law to be recorded in said city. He shall also have the custody of all other papers connected with the proceedings on the law or equity side of Baltimore County Court, and of the dockets thereof, so far as the same have relation to Baltimore city.

The respective Powers and Duties of the Clerks of the two Civil Courts in Baltimore City.

1853, ch. 86.

SEC. 16. That the Clerk of the Court of Appeals, and the Clerks of the Circuit Courts in the several counties, shall respectively perform all the duties and be entitled to the fees which appertain to the offices of the Clerks of Court of Appeals for the Eastern and Western Shores and of the Clerks of County Courts, and the Clerks of the Court of Common Pleas, the Superior Court and the Criminal Court for Baltimore city, shall perform all the duties appertaining to their respective offices, and heretofore vested in the Clerks of Baltimore County Court and Baltimore City Court respectively, and be entitled to all the fees now allowed by law; and all laws relating to the Clerks of Court of Appeals, Clerks of the several County Courts and Baltimore City Court,

Powers and Duties of the Clerks of Court of Appeals and Circuit Courts respectively.

1852, ch. 173.

do. 308.

1853, ch. 134.

do. 409.

do. 444.

1 Md. 374.

shall be applicable to the Clerks respectively of the Court of Appeals, the Circuit Courts, the Court of Common Pleas, the Superior Court, and the Criminal Court of Baltimore City, until otherwise provided by law; and the said clerks, when duly elected and qualified according to law, shall have the charge and custody of the records and other papers belonging to their respective offices.

Judges of Orphans' Courts.

When and how
to be elected.
1852, ch. 20.
do. 48.
do. 62.
do. 73.
do. 139.
do. 247.
do. 290.
do. 341.
1853, ch. 81.
do. 147.
do. 271.
do. 333.
do. 385.

Jurisdiction.

Compensation.

Register of Wills.

His Election.

Term of Office.

SEC. 17. The qualified voters of the city of Baltimore, and of the several counties of the State, shall, on the first Wednesday of November, eighteen hundred and fifty-one, and on the same day of the same month in every fourth year forever thereafter, elect three men to be Judges of the Orphans' Court of said city and counties respectively, who shall be citizens of the State of Maryland, and citizens of the city or county for which they may be severally elected at the time of their election. They shall have all the powers now vested in the Orphans' Courts of this State, subject to such changes therein as the Legislature may prescribe, and each of said Judges shall be paid at a per diem rate, for the time they are in session, to be fixed by the Legislature, and paid by the said counties and city respectively.

SEC. 18. There shall be a Register of Wills in each county of the State, and in the city of Baltimore, to be elected by the legal and qualified voters of said counties and city respectively, who shall hold his office for six years from the time of his election, and until a new election shall take place, and be re-eligible thereto, subject to be removed for wilful ne-

glect of duty, or misdemeanor in office, in the same manner that the clerks of the county courts are removable. In the event of any vacancy in the office of Register of Wills, said Vacancies.

SEC. 19. The Legislature at its first session after the adoption of this Constitution, shall fix the number of Justices of the Peace and Constables for each ward of the city of Baltimore, and for each election district in the several counties, who shall be elected by the legal and qualified voters thereof respectively, at the next general election for delegates thereafter, and shall hold their offices for two years from the time of their election, and until their successors in office are elected and qualified; and the Legislature may, from time to time, increase or diminish the number of Justices of the Peace and Constables to be elected in the several wards and election districts, as the wants and interests of the people may require. They shall be, by virtue of their offices, conservators of the peace in the said counties and city respectively, and shall have such duties and compensation as now exist, or may be provided for by law. In the event of a vacancy in the office of a justice of the peace, the Governor shall appoint a person to serve as justice of the peace, until the next regular election of said officers, and in case of a vacancy in the office of constable, the county com-

Number of Justices of the Peace and Constables to be fixed.

1853, ch. 274.

Their Election and Term of Office.

Number may be increased.

1853, ch. 102.

1854, ch. 302.

Duties and Compensation.

1852, ch. 76.

do. 239.

1853, ch. 201.

1854, ch. 225.

do. 236.

Vacancies.

Appeals.	missioners of the county, in which a vacancy may occur, or the Mayor and City Council of Baltimore, as the case may be, shall appoint a person to serve as constable until the next regular election thereafter for said officers. An appeal shall lie in all civil cases from the judgment of a Justice of the Peace to the Circuit Court, or to the Court of Common Pleas of Baltimore city, as the case may be, and on all such appeals, either party shall be entitled to a trial by jury, according to the laws now existing, or which may be hereafter enacted. And the Mayor and City Council may provide, by ordinance, from time to time, for the creation and government of such temporary additional police, as they may deem necessary to preserve the public peace.
5 Md. 337.	
Jury Trial.	
Police of Baltimore City.	
Sheriffs.	SEC. 20. There shall be elected in each county and in the city of Baltimore, every second year, two persons for the office of sheriff for each county, and two for the said city, the one of whom having the highest number of votes of the qualified voters of said county or city, or if both have an equal number, either of them, at the discretion of the Governor, to be commissioned by the Governor for the said office, and, having served for two years, such persons shall be ineligible for the two years next succeeding; bond with security, to be taken every year, and no sheriff shall be qualified to act before the same be given. In case of death, refusal, disqualification or removal out of the county, before the expiration of the said two years, the other person chosen as aforesaid, shall be commissioned
Their Election.	
Term of Office.	
Bond.	
Vancancies.	

by the Governor to execute the said office for the residue of the said two years, the said person giving bond with security as aforesaid. No person shall be eligible to the office of sheriff but a resident of such county or city respectively, who shall have been a citizen of this State at least five years preceding his election, and above the age of twenty-one years. The two candidates, properly qualified, having the highest number of legal ballots, shall be declared duly elected for the office of sheriff for such county or city, and returned to the Governor, with a certificate of the number of ballots for each of them.

Qualifications.

Returns of Elections.

SEC. 21. Coroners, Elisors and Notaries Public shall be appointed for each county and the city of Baltimore, in the manner now prescribed by law, or in such other manner as the General Assembly may hereafter direct.

Coroners, Elisors and Notaries Public.

SEC. 22. No Judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity, or consanguinity, within such degrees as may be prescribed by law, or where he shall have been of counsel in the case; and whenever any of the judges of the circuit courts, or of the courts of Baltimore city, shall be thus disqualified, or whenever, by reason of sickness, or any other cause, the said judges, or any of them, may be unable to sit in any cause, the parties may, by consent, appoint a proper person to try the said cause, or the judges, or any of them, shall do so when directed by law.

Judges disqualified from sitting in certain cases.

1852, ch. 68.
1853, ch. 299,
do. 425.

Provisions for such cases and for sickness, &c.

SEC. 23. The present Chancellor and the Register in Chancery, and, in the event of any

Provisions for abolishing the Court of Chancery.

vacancy in their respective offices, their successors in office respectively, who are to be appointed as at present, by the Governor and Senate, shall continue in office, with the powers and compensation as at present established, until the expiration of two years after the adoption of this Constitution by the people, and until the end of the session of the Legislature next thereafter, after which the said offices of Chancellor and Register shall be abolished. The Legislature shall, in the meantime, provide by law for the recording, safe-keeping, or other disposition, of the records, decrees, and other proceedings of the Court of Chancery, and for the copying and attestation thereof, and for the custody and use of the Great Seal of the State, when required, after the expiration of the said two years, and for transmitting to the said counties, and to the city of Baltimore, all the cases and proceedings in said Court then undisposed of and unfinished, in such manner, and under such regulations as may be deemed necessary and proper: *Provided*, that no new business shall originate in the said Court, nor shall any cause be removed to the same from any other court, from and after the ratification of this Constitution.

1854, ch. 149.

1853, ch. 131.
1854, ch. 81.

1853, ch. 123.
1854, ch. 183.

Time of Election
of Judges, Clerks
and Registers of
Wills.

SEC. 24. The first election of Judges, Clerks, Registers of Wills, and all other officers, whose election by the people is provided for in this article of the Constitution, except justices of the peace and constables, shall take place throughout the State on the first Wednesday of November next after the ratification of this Constitution by the people.

SEC. 25. In case of the death, resignation, removal, or other disqualification of a judge of any of the courts of law, the Governor, by and with the advice and consent of the Senate, shall thereupon appoint a person, duly qualified, to fill said office until the next general election for delegates thereafter; at which time an election shall be held as hereinbefore prescribed, for a judge, who shall hold the said office for ten years, according to the provisions of this Constitution.

Provisions in case of Death, &c., of Judges of Courts of Law.

SEC. 26. In case of the death, resignation, removal, or other disqualification of the judge of an Orphans' Court, the vacancy shall be filled by the appointment of the Governor, by and with the advice and consent of the Senate.

Provisions in cases of Death, &c., of Judges of Orphans' Courts.

SEC. 27. Whenever lands lie partly in one county, and partly in another, or partly in a county and partly in the city of Baltimore, or whenever persons proper to be made defendants to proceedings in Chancery, reside some in one county and some in another, that court shall have jurisdiction in which proceedings shall have been first commenced, subject to such rules, regulations and alterations as may be prescribed by law.

Jurisdiction in Chancery cases.
1852, ch. 16,
sec. 5.

SEC. 28. In all suits or actions at law, issues from the Orphans' Court or from any court sitting in equity, in petitions for freedom, and in all presentments and indictments now pending, or which may be pending at the time of the adoption of this Constitution by the people, or which may be hereafter instituted in any of the courts of law of this State, having jurisdiction thereof, the judge or judges there-

Removal of cases to an adjoining county.

1852, ch. 169.
do. 315.
1854, ch. 325.
2 Md. 274.
5 Md. 370.
6 Md. 449.

How suggestions
for removal to be
made.

To what County
removals to be
made.

When sugges-
tions for removal
to be made.

Elections and
Returns thereof.

1853, ch. 134.

of, upon suggestion in writing, if made by the State's Attorney, or the prosecutor for the State, or upon suggestion in writing, supported by affidavit made by any of the parties thereto, or other proper evidence, that a fair and impartial trial cannot be had in the court where such suit or action at law, issues or petitions, or presentment and indictment is depending, shall order and direct the record of proceedings in such suit or action, issues or petitions, presentment or indictment, to be transmitted to the court of any adjoining county; provided, that the removal in all civil causes be confined to an adjoining county within the judicial circuit, except as to the city of Baltimore, where the removal may be to an adjoining county, for trial, which court shall hear and determine the same in like manner as if such suit or action, issues or petitions, presentment or indictment, had been originally instituted therein; and *provided also*, that such suggestion shall be made as aforesaid, before or during the term in which the issue or issues may be joined in said suit or action, issues or petition, presentment or indictment, and that such further remedy in the premises may be provided by law, as the Legislature shall from time to time direct and enact.

SEC. 29. All elections of judges, and other officers provided for by this Constitution, shall be certified, and the returns made by the clerks of the respective counties to the Governor, who shall issue commissions to the different persons for the offices to which they shall have been respectively elected; and in all such elections,

the person having the greatest number of votes, shall be declared to be elected.

SEC. 30. If, in any case of election for Judges, Cases of a tie and contested elections. Clerks of the Courts of Law and Registers of Wills, the opposing candidates shall have an equal number of votes, it shall be the duty of the Governor to order a new election; and in case of any contested election, the Governor shall send the returns to the House of Delegates, who shall judge of the election and qualification of the candidates at such election.

SEC. 31. Every person of good moral character, being a voter, shall be admitted to practice law in all the courts of law in this State, in his own case. Voters may plead their own cases.

ARTICLE V.

THE STATE'S ATTORNEYS.

SECTION 1. There shall be an attorney for the State in each county and the city of Baltimore, to be styled "The State's Attorney," who shall be elected by the voters thereof, respectively, on the first Wednesday of November next, and on the same day every fourth year thereafter, and hold his office for four years from the first Monday of January next ensuing his election, and until his successor shall be elected and qualified, and shall be re-eligible thereto, and be subject to removal therefrom for incompetency, wilful neglect of duty or misdemeanor in office, on conviction in a court of law. Election and Term of Office of the State's Attorneys.

Returns of Elections to be made to Judges.

SEC. 2. All elections for the State's Attorney shall be certified to, and returns made thereof, by the clerks of the said counties and city to the Judges thereof having criminal jurisdiction, respectively, whose duty it shall be to decide upon the elections and qualifications of the persons returned, and in case of a tie between two or more persons, to designate which of said persons shall qualify as State's Attorney, and to administer the oaths of office to the persons elected.

Their Duties and their Fees.

SEC. 3. The State's Attorney shall perform such duties and receive such fees and commissions as are now prescribed by law for the Attorney General and his Deputies, and such other duties, fees and commissions as may hereafter be prescribed by law, and if any State's Attorney shall receive any other fee or reward than such as is, or may be allowed by law, he shall, on conviction thereof, be removed from office.

Their qualifications.

SEC. 4. No person shall be eligible to the office of State's Attorney who has not been admitted to practice the law in this State, and who has not resided for at least one year in the county or city in which he may be elected.

Vacancies.

SEC. 5. In case of vacancy in the office of State's Attorney, or of his removal from the county or city in which he shall have been elected, or on his conviction as herein before specified, the said vacancy shall be filled by the Judge of the county or city, respectively, having criminal jurisdiction in which said vacancy shall occur, until the election and qualification of his successor; at which election

said vacancy shall be filled by the voters of the said county or city, for the residue of the term thus made vacant.

SEC. 6. It shall be the duty of the Clerk of the Court of Appeals, and the Commissioner of the Land Office, respectively, whenever a case shall be brought into said court or office, in which the State is a party, or has an interest, immediately to notify the Governor thereof.

State cases in
Court of Appeals
and Land Office.

ARTICLE VI.

TREASURY DEPARTMENT.

SECTION 1. There shall be a Treasury Department, consisting of a Comptroller, chosen by the qualified electors of the State, at each election of members of the House of Delegates, who shall receive an annual salary of two thousand five hundred dollars; and of a Treasurer, to be appointed by the two Houses of the Legislature, at each session thereof, on joint ballot, who shall also receive an annual salary of two thousand five hundred dollars; and neither of the said officers shall be allowed or receive any fees, commissions, or perquisites of any kind, in addition to his salary, for the performance of any duty or service whatever. In case of a vacancy in either of the offices, by death or otherwise, the Governor, by and with the advice and consent of the Senate, shall fill such vacancy by appointment, to continue until another election by the people, or a choice by the Legislature, as the case may

Comptroller of
the Treasury.
His Election and
Salary.

4 Md. 189.
1853, ch. 403.

Treasurer.

His Appointment
and Salary.

Vacancies.

Place of their Offices. Their Oaths and Bonds. 1852, ch. 12.	be, and the qualification of the successor. The Comptroller and the Treasurer shall keep their offices at the seat of government, and shall take such oath, and enter into such bonds, for the faithful discharge of their duties, as the Legislature shall prescribe.
The Duties of the Comptroller of the Treasury. 1853, ch. 82, §3.	SEC. 2. The Comptroller shall have the general superintendence of the fiscal affairs of the State: he shall digest and prepare plans for the improvement and management of the revenue, and for the support of the public credit; prepare and report estimates of the revenue and expenditure of the State; superintend and enforce the collection of all taxes and revenue; adjust, settle and preserve all public accounts; decide on the forms of keeping and stating accounts; grant, under regulations prescribed by law, all warrants for moneys to be paid out of the treasury, in pursuance of appropriations by law; prescribe the formalities of the transfer of stock or other evidences of the State debt; and countersign the same, without which such evidences shall not be valid; he shall make full reports of all his proceedings, and of the state of the Treasury Department within ten days after the commencement of each session of the Legislature, and perform such other duties as shall be prescribed by law.
To prepare plans for Management of the Revenue. To report estimates. To superintend collections. To adjust acc'ts. To decide on the forms of accounts To grant warrants for moneys. To regulate the transfer of stock. 1852, ch. 65.	
To report all his proceedings to the Legislature. 1852, ch. 56.	
The Duties of the Treasurer. To receive and disburse moneys. 4 Md. 189.	SEC. 3. The Treasurer shall receive and keep the moneys of the State, and disburse the same upon warrants drawn by the Comptroller, and not otherwise; he shall take receipts for all moneys paid by him, and all receipts for moneys received by him shall be endorsed upon warrants signed by the Comptroller, without
To take receipts on the Comptroller's warrants.	

which warrant, so signed, no acknowledgment of money received into the Treasury shall be valid; and upon warrants issued by the Comptroller he shall make arrangements for the payment of the interest of the public debt, and for the purchase thereof, on account of the sinking fund. Every bond, certificate, or other evidence of the debt of the State, shall be signed by the Treasurer and countersigned by the Comptroller, and no new certificate or other evidence intended to replace another shall be issued until the old one shall be delivered to the Treasurer, and authority executed in due form for the transfer of the same shall be filed in his office, and the transfer accordingly made on the books thereof, and the certificate or other evidence cancelled; but the Legislature may make provision for the loss of certificates or other evidence of the debt.

To provide for payment of Public Debt.

Provisions in relation to the evidences of the Public Debt.

1852, ch. 65.
do. 123.

SEC. 4 The Treasurer shall render his accounts quarterly to the Comptroller; and on the third day of each session of the Legislature he shall submit to the Senate and House of Delegates fair and accurate copies of all accounts by him from time to time rendered and settled with the Comptroller. He shall at all times submit to the Comptroller the inspection of the moneys in his hands, and perform all other duties that shall be prescribed by law.

Treasurer to render accounts to the Comptroller quarterly and report to Legislature.

ARTICLE VII.

SUNDRY OFFICERS.

Commissioners
of Public Works.

Their Duties.

To appoint Di-
rectors.

To review and
adjust Tolls.

To keep a Jour-
nal.

To report to Le-
gislation.

Their Salary.

SECTION 1. At the first general election of Delegates to the General Assembly, after the adoption of this Constitution, four Commissioners shall be elected as hereinafter provided, who shall be styled "Commissioners of Public Works," and who shall exercise a diligent and faithful supervision of all Public Works, in which the State may be interested as stockholder or creditor, and shall represent the State in all meetings of the Stockholders, and shall appoint the Directors in every Rail Road or Canal Company, in which the State has the constitutional power to appoint Directors. It shall also be the duty of the Commissioners of Public Works to review, from time to time, the rate of tolls adopted by any company; use all legal powers which they may possess to obtain the establishment of rates of tolls, which may prevent an injurious competition with each other, to the detriment of the interests of the State; and so to adjust them as to promote the agriculture of the State. It shall also be the duty of the said Commissioners of Public Works to keep a journal of their proceedings; and at each regular session of the Legislature to make it a report, and to recommend such legislation as they shall deem necessary and requisite to promote or protect the interest of the State in the Public Works; and perform such other duties as may be prescribed by law. They shall each receive such salary as may be

allowed by law, which shall not be increased or diminished during their continuance in office. 1852, ch. 122.

SEC. 2. For the election of the Commissioners of Public Works, the State shall be divided into four districts. The counties of Allegany, Washington, Frederick, Carroll, Baltimore and Harford, shall constitute the first district. The counties of Montgomery, Howard, Anne Arundel, Calvert, St. Mary's, Charles and Prince George's, shall constitute the second district. Baltimore city shall constitute the third district. The counties of Cecil, Kent, Queen Anne's, Talbot, Caroline, Dorchester, Somerset, and Worcester, shall constitute the fourth district. One commissioner shall be elected in each district, who shall have been a resident thereof at least five years next preceding his election. State divided into four Districts.

SEC. 3. The said Commissioners shall be elected by the qualified voters of their districts respectively; the returns of their election shall be certified to the Governor, who shall, by proclamation, declare the result of the election. Two of the said commissioners, first elected, shall hold their office for four years, and the other two for two years from the first Monday of December next succeeding their election. And at the first meeting after their election, or as soon thereafter as practicable, they shall determine, by lot, who of their number shall hold their offices for four and two years respectively; and thereafter there shall be elected as aforesaid, at each general election of Delegates, two commissioners for the term of four years, to be taken from the districts respectively. One Commissioner of Public Works to be elected in each. His qualifications.

The Returns of Elections of the Commissioners for Public Works

Terms of Office.

wherein the commissioners resided at the time of their election, whose term of service has expired. And in case of a vacancy in the office of either of said commissioners, by death, resignation, or otherwise, the Governor, by and with the advice and consent of the Senate, shall appoint some qualified person from the same district, to serve until the next general election of Delegates, when an election shall be held, as aforesaid, for a commissioner for the residue of said term. And in case of an equal division in the board of commissioners, on any subject committed to their charge, the Treasurer of the State shall have power, and shall be called on to decide the same. And in the event of a tie vote for any two of the candidates for the office of commissioner in the same district, it shall be the duty of the Governor to commission one or the other of the candidates having the equal number of votes. And if the Governor doubt the legality or result of any election held for said commissioners, it shall be his duty to send the returns of such election to the House of Delegates, who shall judge of the election and qualification of the candidates at such election.

SEC. 4. During the continuance of the lottery system in this State, there shall be elected by the legal and qualified voters of the State, at every general election for delegates to the General Assembly, one Commissioner of Lotteries, who shall hold his office for two years, and till the qualification of his successor, and shall be re-eligible. His whole compensation shall be paid out of the fund raised for the Ma-

Vacancies.

Case of a division of opinion.

Cases of a Tie or of Contested Elections.

Lottery Commissioner.
His Election.
1852, ch. 113.

Term of Office.

His Compensation.

ryland Consolidated Lottery grants, and shall not exceed the amount of commissions received by one of the present Lottery Commissioners, out of said fund; and he shall give such bond, for the faithful performance of his duties as is now given by the Lottery Commissioners. The term of the Commissioner, who shall be elected at the general election for Delegates next succeeding the adoption of this Constitution, shall commence at the expiration of the commissions of the present Lottery Commissioners, and continue for two years, and till the qualification of his successor.

His Bond.

SEC. 5. From and after the first day of April, eighteen hundred and fifty-nine, no lottery scheme shall be drawn, for any purpose whatever, nor shall any lottery ticket be sold in this State; and it shall be the duty of the several commissioners elected under this Constitution, to make such contract or contracts as will extinguish all existing lottery grants before the said first day of April, eighteen hundred and fifty-nine, and also secure to the State a clear yearly revenue equal to the average amount derived by the State from the system for the last five years; but no such contract or contracts shall be valid until approved by the Treasurer and Comptroller.

Provisions for abolishing Lotteries.

SEC. 6. There shall be a Commissioner of the Land Office elected by the qualified voters of the State, at the first general election of Delegates to the Assembly after the ratification of this Constitution, who shall hold his office for the term of six years from the first day of January next after his election. The

Commissioner of the Land Office. His Election and Term of Office.

Returns of Election.
Cases of a tie.

Duties and Compensation of
Commissioner.

To act as Judge,
as Register, and
as Examiner General.

1852, ch. 361.
1853, ch. 415.

Offices of Register
and Examiner
General abolished.

State Librarian.
His Election and
Term of Office.

5 Md. 423.

Salary.

His Duties.

County Commissioners.

How and when
to be elected.

returns of said election shall be made to the Governor, and in the event of a tie between any two or more candidates, the Governor shall direct a new election to be held by writs to the several sheriffs, who shall hold said election after at least twenty days notice, exclusive of the day of election. The said Commissioner shall sit as judge of the Land Office, and receive therefor the sum of two hundred dollars per annum, to be paid out of the State Treasury. He shall also perform the duties of the Register of the Land Office, and be entitled to receive therefor the fees now chargeable in said office; and he shall also perform the duties of Examiner General, and be entitled to receive therefor the fees now chargeable by said officer. The office of Register of the Land Office and Examiner General shall be abolished from and after the election and qualification of the Commissioner of the Land Office.

SEC. 7. The State Librarian shall be elected by the joint vote of the two branches of the Legislature, for two years, and until his successor shall be elected and qualified. His salary shall be one thousand dollars per annum. He shall perform such duties as are now or may hereafter be prescribed by law.

SEC. 8. The county authorities now known as Levy Courts or County Commissioners, shall hereafter be styled "County Commissioners," and shall be elected by general ticket, and not by districts, by the voters of the several counties, on the first Wednesday in November, one thousand eight hundred and fifty-

one, and on the same day in every second year thereafter. Said Commissioners shall exercise such powers and duties only as the Legislature may from time to time prescribe; but such powers and duties, and the tenure of office, shall be uniform throughout the State, and the Legislature shall, at or before its second regular session, after the adoption of this Constitution, pass such laws as may be necessary for determining the number for each county, and ascertaining and defining the powers, duties, and tenure of office of said Commissioners; and until the passage of such laws the Commissioners elected under this Constitution shall have and exercise all the powers and duties in their respective counties, now exercised by the county authorities under the laws of the State.

Their Powers and Duties to be uniform throughout the State.

Their Number and Powers and Term of Office to be fixed by the Legislature.

1853, ch. 173.
do. 220.
do. 239.
do. 372.
6 Md. 468.

SEC. 9. The General Assembly shall provide by law for the election of Road Supervisors, in the several counties, by the voters of the election districts respectively, and may provide by law for the election or appointment of such other county officers as may be required, and are not herein provided for, and prescribe their powers and duties; but the tenure of office, their powers and duties, and mode of appointment, shall be uniform throughout the State.

Supervisors of Roads and other officers.

1853, ch. 300.

Provision for their Election, &c., to be made by Legislature.

SEC. 10. The qualified voters of each county, and the city of Baltimore, shall, at the first election of delegates after the adoption of this Constitution, and every two years thereafter, elect a Surveyor for the counties, and the city of Baltimore respectively, whose duties and compensation shall be the same as are now prescribed by law for the county and city Sur-

Surveyors. Their Election and Term of office.

Their Duties and Compensations.

1852, ch. 59.

Commencement of their Term of Office.	veyors respectively, or as may hereafter be prescribed by law. The term of office of said county and city Surveyors respectively, shall commence on the first Monday of January next succeeding their election. And vacancies in said office of Surveyors, by death, resignation or removal from their respective counties or city, shall be filled by the Commissioners of the counties, or Mayor and City Council of Baltimore respectively.
Vacancies.	
Wreck-Master. His Election and Term of Office.	SEC. 11. The qualified voters of Worcester county shall, at the first election of delegates after the adoption of this Constitution, and every two yers thereafter, elect a Wreck-
His Duties and Compensation.	Master for the said county, whose duties and compensation shall be the same as are now prescribed or may be hereafter prescribed by law. The term of office of said Wreck-Mas-
Commencement of his Term of Office.	ter shall commence on the first Monday of January next succeeding his election; and a
Vacancies.	vacancy in said office, by death, resignation, or removal from the county, shall be filled by the county commissioners of said county, for the residue of the term thus made vacant.

ARTICLE VIII.

NEW COUNTIES.

Howard County created.	SECTION 1. That part of Anne Arundel county called Howard District, is hereby erected into a new county, to be called Howard county, the inhabitants whereof shall have, hold and enjoy all such rights and privileges as are held
1 Md. 139.	

and enjoyed by the inhabitants of the other counties in this State; and its civil and municipal officers, at the time of the ratification of this Constitution, shall continue in office until their successors shall have been elected or appointed, and shall have qualified as such; and all rights, powers and obligations incident to Howard District of Anne Arundel county shall attach to Howard county.

SEC. 2. When that part of Allegany county, lying south and west of a line beginning at the summit of Big Back Bone or Savage Mountain, where that mountain is crossed by Mason and Dixon's line, and running thence by a straight line, to the middle of Savage river where it empties into the Potomac river, thence by a straight line, to the nearest point or boundary of the State of Virginia; then with said boundary to the Fairfax stone, shall contain a population of ten thousand, and the majority of electors thereof shall desire to separate and form a new county, and make known their desire by petition to the Legislature, the Legislature shall direct at the next succeeding election, that the Judges shall open a book at each Election district in said part of Allegany county, and have recorded therein the vote of each elector "For or Against" a new county. In case the majority are in favor, then said part of Allegany county to be declared an independent county, and the inhabitants whereof shall have, and enjoy all such rights and privileges as are held and enjoyed by the inhabitants of the other counties in this State. *Provided*, that the whole representation in the Ge-

Provisions for
creating a new
County out of
part of Allegany
County.

neral Assembly of the county, when divided, shall not exceed the present delegation of Allegany county, allowed under this Constitution until after the next census.

ARTICLE IX.

MILITIA.

Enrolment of
Militia.

Districting the
State.

Encouraging Vo-
lunteers.

1853, ch. 343.

Election of Offi-
cers.

The Adjutant
General.

2 Md. 341.

His Term of Of-
fice and Salary.

SECTION 1. It shall be the duty of the Legislature to pass laws for the enrolment of the militia; to provide for districting the State into divisions, brigades, battalions, regiments, and companies, and to pass laws for the effectual encouragement of volunteer corps by some mode which may induce the formation and continuance of at least one volunteer company in every county and division in the city of Baltimore. The company, battalion, and regimental officers (staff officers excepted) shall be elected by the persons composing their several companies, battalions and regiments.

SEC. 2. The Adjutant General shall be appointed by the Governor, by and with the advice and consent of the Senate. He shall hold his office for the term of six years, and receive the same salary as heretofore, until changed by the Legislature.

ARTICLE X.

MISCELLANEOUS.

SECTION 1. Every officer of this State, the Governor excepted, the entire amount of whose pay or compensation received for the discharge of his official duties shall exceed the yearly sum of three thousand dollars, shall keep a book, in which shall be entered every sum or sums of money received by him or on his account as a payment or compensation for his performance of official duties, a copy of which entries in said book, verified by the oath of the officer by whom it is directed to be kept, shall be returned yearly to the Treasurer of the State for his inspection and that of the General Assembly of Maryland; and each of such officers, when the amount received by him for the year shall exceed the sum of three thousand dollars, shall yearly pay over to the treasurer the amount of such excess by him received, subject to such disposition thereof as the Legislature may deem just and equitable. And any such officer failing to comply with the said requisition, shall be deemed to have vacated his office, and be subject to suit by the State for the amount that ought to have been paid into the treasury.

Compensation of
Officers not to
exceed \$3,000.

1853, ch. 444.
1854, ch. 196.

The excess of
fees, &c., to be
paid to Treas-
urer.

On failure, their
Offices vacated.

SEC. 2. The Legislature shall have power to pass all such laws as may be necessary and proper for carrying into execution the powers vested by this Constitution, in any department or office of the government, and the duties imposed upon them thereby.

Legislature to
pass laws to car-
ry out the provi-
sions of the Con-
stitution.

1852, ch. 172.

In case of a tie in Election, a new one to be ordered.

1854, ch. 26.

SEC. 3. If in any election directed by this Constitution any two or more candidates shall have the highest and an equal number of votes, a new election shall be ordered, unless in cases specially provided for by the Constitution.

Trial by Jury preserved in cases over five dollars.

SEC. 4. The trial by jury of all issues of fact in civil proceeding, in the several courts of law in this State, where the amount in controversy exceeds the sum of five dollars, shall be inviolably preserved.

Jury to be Judges of Law and Fact in Criminal cases. Legislature to regulate Elections.

SEC. 5. In the trial of all criminal cases the jury shall be the judges of law as well as fact.

1852, ch. 183.
1853, ch. 134.

SEC. 6. The Legislature shall have power to regulate by law all matters which relate to the judges, time, place and manner of holding elections in this State, and of making returns thereof, provided that the tenure and term of office, and the day of election shall not be affected thereby.

Vested Rights, &c., to remain.

1 Md. 368.

SEC. 7. All rights vested, and all liabilities incurred shall remain as if this Constitution had not been adopted.

Governor and other officers to continue in Office.

1 Md. 140.
do. 368.
2 Md. 341.

SEC. 8. The Governor and all officers, civil and military, now holding commissions under this State, shall continue to hold and exercise their offices, according to their present tenure, until they shall be superseded, pursuant to the provisions of this Constitution, and until their successors be duly qualified.

Sheriffs to give notice of the Elections.

SEC. 9. The sheriffs of the several counties of this State, and of the city of Baltimore, shall give notice of the several elections authorized by this Constitution, in the manner prescribed by existing laws for elections under the present Constitution.

SEC. 10. This Constitution, if adopted by a majority of the legal votes cast on the first Wednesday of June next, shall go into operation on the fourth day of July next, and on and after said day shall supersede the present Constitution of this State.

This Constitution to go into effect on 4th July.

ARTICLE XI.

AMENDMENT OF THE CONSTITUTION.

It shall be the duty of the Legislature, at its first session immediately succeeding the returns of every census of the United States, hereafter taken, to pass a law for ascertaining, at the next general election of Delegates, the sense of the people of Maryland in regard to the calling a Convention for altering the Constitution; and in case the majority of votes cast at said election shall be in favor of calling a Convention, the Legislature shall provide for assembling such Convention, and electing Delegates thereto at the earliest convenient day; and the Delegates to the said Convention shall be elected by the several counties of the State and the city of Baltimore, in proportion to their representation respectively in the Senate and House of Delegates, at the time when said Convention may be called.

The sense of the people to be taken every ten years in regard to calling a Convention for altering the Constitution.

The Proportion of Delegates to such Convention.

Done in Convention the 13th day of May, in the year of our Lord one thousand eight hundred and fifty-one, and of the Independence of the United States the seventy-fifth.

J. G. CHAPMAN,
President of the Convention.

Attest—GEORGE G. BREWER,
Secretary to Convention.

STATE OF MARYLAND,
COURT OF APPEALS, W. S.

I, RICHARD W. GILL, Clerk of the Court of Appeals aforesaid, do hereby certify that this Constitution was this sixteenth day of May, in the year of our Lord eighteen hundred and fifty-one, filed in this office.—Witness my hand as Clerk.

R. W. GILL, *Clerk.*

APPENDIX TO SECOND EDITION.

HAVING, at the request of the publishers, prepared the marginal notes to this Edition of the New Constitution, it seemed to me that it would be useful to add, by way of Appendix, brief notes of the principal changes which have been made in the fundamental law of the State, with their apparent or supposed causes, and of the subjects that require particular attention on the part of the Legislature, and of officers in other departments of the Government.

It is said, by the learned and elegant Commentator on the Laws of England, that there are three points to be considered in the construction of statutes, viz. the old law, the mischief and the remedy. The framers of the New Constitution had before them the Old Law, and had also, it is to be presumed, some idea of the mischiefs, which were intended to be prevented, by the remedies which have been provided. It may be useful therefore to note both the changes and their causes; for no change is ever made without a cause, and without a due consideration of both, no man can clearly understand or properly perform his duty.

THE DECLARATION OF RIGHTS.

This Declaration, consisting principally of immutable principles of government, has been but slightly altered.

The addition to the *first article* of it is the only change of sufficient importance to notice. It relates to the “unalienable right to alter the form of government,” and contains a restriction of this right to “the mode prescribed in the Constitution.” The importance of this alteration may be seen by reflection upon the fact that the Old Constitution was altered, at the time of the formation of this New one, in a mode different from that which was prescribed in the former, and that the right of alteration in the new mode was, at that time, the subject of much discussion.

THE CONSTITUTION.

ART. I.—ELECTIVE FRANCHISE.

The Elective Franchise, which is the subject of the *first article* of the New Constitution, has been a little enlarged, by the provision in relation to removals; and it is moreover better protected than heretofore, by the provisions against fraud. The oath, which is now required of all officers, before entering upon their duties, that they have not been in any way guilty of bribery at elections, and the perpetual disfranchisement of those who have at any time violated the laws regulating the elective franchise, are important and salutary changes. The whole foundation of a Republican Government is the will of the people fairly expressed, and all attempts to influence that will, by any other means than rational argument, tend to the destruction of that form of government, and hence of Liberty.

ART. II.—EXECUTIVE DEPARTMENT.

By the *first section* of this article the term of office of the Governor is enlarged from three to four years. By this change, the expiration of it is made to coincide with that of every second term of the Delegates, they being elected biennially, in which respect there is a similarity between the Constitution of this State and that of the United States.

By the *fourth section* it is provided, that when two or more persons have the highest and an equal number of votes for Governor, the second vote shall be confined to those persons, and if the votes be again equal, the election is to be determined by lot. The great use of such a provision, in some cases, will readily be perceived by those who have studied the history of the elections of Speakers, Presidents and other officers, both in the National and State Legislatures. It would have been well if this principle had been extended to other officers than the Governor. It can be demonstrated, with almost mathematical certainty, that the only plan which is both just and certain in its operation, for the election of a person to any office, where there are several candidates, is continually to drop the lowest one, after the first ballot, and if at last there be a tie, to decide by lot.

The *ninth section* prohibits the Governor from taking the command in person of the forces of the State, without the consent of the Legislature. It is to be hoped that there may never be occasion for his asking or their giving such consent.

The *seventeenth section* imposes upon the Governor the new duty of examining the books of the Treasurer, which is designed to be an additional check upon that Department of Government.

The *nineteenth section* imposes restrictions upon the pardoning power, which are well calculated to restrain the exercise of it within proper bounds.

Besides these changes, affecting the Governor's prerogative, there is another, which is the most *important* of them all. He has been stripped of the power of judging of the suitability of candidates for all the principal offices in the State, and of appointing them, by and with the advice and consent of the Senate, and is now clothed with such powers only as properly appertain to the chief Executive authority in a State. It is to be presumed that several causes operated together to produce this change, viz. with some persons, a conviction that the Legislative, Executive and Judicial powers of the government were not separate and distinct from each other, under the old mode of appointing Judges, &c.—although the Declaration of Rights expressly declares that they ought to be;—with others, an opinion that the people at large can judge of the qualifications of candidates for all offices as well as the Governor can; and with a third class of persons, a disposition to restrain the appointing power of the Governor, or the Executive patronage, as it is called, in order to prevent what was thought to be its injurious influence upon popular elections, and its growing tendency to abuse.

ART. III.—LEGISLATIVE DEPARTMENT.

The changes which have been made in this Article are numerous and important.

By the *second section* of it the term of office of Senators is reduced from six to four years, and by a subsequent section it is provided, that one-half of them, instead of one-third as formerly, shall be elected biennially. The Old Constitution, in this respect, was like that of the United States, but it was contended, by those who advocated this change, that the term was so long as in a measure to take away the responsibility of Senators to the people for their conduct.

The *third section* apportions representation in the House of Delegates according to population. This principle of representation, now for the first time adopted in this State, although it is a fundamental one in all Republican governments, is restricted in regard to Baltimore City, for fear that her power might become so great as to lead to the passing of

laws, either for her own particular benefit, or for the oppression of the Counties.

By the *seventh section*, the regular sessions of the Legislature are a little shortened, by changing the time of meeting. The first two Sessions after the adoption of this Constitution are excepted. It will be observed that, by subsequent provisions, the Legislature will be prevented from occupying its time by the enactment of many local and private laws.

The *fourteenth and fifteenth sections* will give greater publicity to the proceedings of the Legislature.

The *seventeenth section* embraces some of the most useful provisions that are to be found in the whole Constitution. It relates to the manner of passing laws, to their revision and codification, to the manner of amending the code after it is adopted, and to the simplification and abridgment of the rules of Practice, Pleading, Conveyancing, &c. This State has long been suffering for want of a proper codification of its laws. Several attempts indeed have been made, both with and without the aid of the Legislature, but all of them have proved to be failures; and a great and lasting benefit will be conferred upon the people, if the Commissioners for revision faithfully fulfil the duties assigned to them. While several of our sister States have, for many years past, enjoyed the advantage of a well arranged system of laws, framed to suit their advanced state of civilization and liberty, we yet live under some that were framed more than a century ago, many of which have been abolished in England where they originated. The able Report of Mr. Kilty, made under the direction of the Legislature, shewing which of the British statutes are in force in Maryland, and which are proper to be incorporated into our Laws, will require the attention of the Commissioners for revision.

The *eighteenth section* takes away the restriction upon the Senate from originating money bills, upon the ground perhaps that, as the reason for such a restriction had ceased, the law itself should cease. The remaining part of this section and the *nineteenth section* contain new provisions to prevent laws being passed in too great haste, or without the sanction of a majority of the members of the Legislature, the causes for which provisions may readily be found in the history of past legislation in this State.

The *twenty-first section* prohibits the Legislature from granting divorces, obviously because it would occupy too much time, and because it is properly a judicial act.

The *twentieth* and *twenty-second sections*, prohibiting the contracting of Public Debt, or the loan of the credit of the State, by the Legislature, will, it is to be hoped, prevent her fair name from being again tarnished, as it has been, by a failure to meet her pecuniary obligations to creditors at home and abroad. Honor as well in a State as in an individual, ought to be as zealously guarded as Liberty.

The *twenty-third section* prohibits extra compensation from being given, after a contract is made, as it has been often heretofore.

The *thirtieth section* fixes the per diem of members and prevents useless expenditures.

The *thirty-second section* abolishes the office of Attorney-General.

The *thirty-third section* provides for the protection of the Elective Franchise, further than is provided in the first article, by allowing certain criminals to be disfranchised.

The *thirty-sixth section*, making duelists ineligible to any office, will tend to check the practice of settling disputes by a most barbarous method.

The *thirty-eighth*, *thirty-ninth* and *forty-fourth sections* providing first, for the protection of a wife's property—second, for the exemption of a debtor's property to a certain amount—and third, for the abolishment of imprisonment for debt, will essentially alter the relations of debtor and creditor, and make the reliance upon personal character a more important element than heretofore in mercantile and other transactions, where the credit system prevails. These sections require the special attention of the Legislature.

The *fortieth section* imposes upon the Legislature the difficult but very necessary duty of adopting some simple and uniform system of charges in the offices of Clerks and Registers, and limits their compensation to twenty-five hundred dollars per annum. The charges heretofore fixed had, by change in the amount of business, and other circumstances, become too high, and the salaries of some of these officers had grown to be enormous.

The *forty-fifth* and *forty-seventh sections* contain provisions in relation to Banks and other corporations, which seem to be perfectly in accordance with the declaration (No. 39) "That monopolies are odious, contrary to the spirit of a free government, and to the principles of commerce, and ought not to be suffered."

The omission of the provision, contained in the Old Constitution, against a tax for religion, was made probably on the ground that in this enlightened age the Legislature did not need to be reminded of the impropriety of it.

ART. IV.—JUDICIARY DEPARTMENT.

The greatest changes in this Department are

- 1st. The substitution of a term of years for the life tenure of the Judges :
- 2d. The election of Judges, Clerks and Registers by the people :
- 3d. The substitution of one Judge for three in the County Courts :
- 4th. The abolishment of the Court of Chancery.

The two changes first named are owing to the prevalence of such opinions as are referred to in the comments on the Executive Department and on the change of the senatorial term of office; and the other two may safely be said to have been made principally from pecuniary considerations. Several duties are to be performed by the Legislature in relation to this department, which will be pointed out at the close of these notes.

ART. V.—STATE'S ATTORNEYS.

This article is entirely new. It was before observed that a change was made by abolishing the office of Attorney-General; and the provision that those officers who were formerly called his Deputies and were appointed by him, shall be elected by the people, is in harmony with other parts of the instrument.

ART. VI.—TREASURY DEPARTMENT.

The whole of this department has been remodeled. The Comptroller of the Treasury is a new officer designed as a check upon the Treasurer. The former is to be elected by the people and the latter by the legislature. This plan of giving authority to one from one source, and to the other from another, makes them, in a measure, independent of each other; and thereby the danger of collusion is greatly lessened. By the old system there was no such check upon the Treasurer, the integrity of a single individual being the chief and almost the only safeguard of the State in regard to its treasure.

ART. VII.—SUNDRY OFFICERS.

This article provides for the election of sundry officers by the people. The office of Commissioner of Public Works, of whom there are to be four, is a new one. Their duty is to superintend the interest of the State in Rail Road and Canal Companies.

By the *fourth* and *fifth sections* it is provided that a Lottery Commissioner shall be elected every two years until 1st April, 1859, when the whole system is to be abolished.

By the *sixth section* the Commissioner of the Land Office is to be elected by the people, and to perform the duties of the Register of the Land Office and Examiner-General.

The *eighth section* provides for the election of County Commissioners, and that their powers and duties shall be uniform throughout the State. This is a great improvement upon the existing Acts of Assembly in regard to those officers and their duties.

ART. VIII.—NEW COUNTIES.

By this article one new county is created, and provision is made for the creation of another.

ART. IX.—MILITIA.

Sundry duties are here prescribed for the Legislature in regard to statutes to be passed for regulating the Militia of the State. The present law on the subject is not enforced, and it is comparatively a dead letter.

ART. X.—MISCELLANEOUS.

Among the miscellaneous provisions in this article, those in the *first section* are particularly to be noted, as being new and useful, viz. that every officer, except the Governor, who receives more than three thousand dollars per annum, for the performance of his official duties, shall pay the balance into the Treasury, and give a statement of his receipts and expenditures. The fact that certain officers heretofore received compensations much too large, led to these provisions.

ART. XI.—AMENDMENT OF THE CONSTITUTION.

By this article the mode of amending the Constitution has been entirely changed. The former mode was that amendments must be made by an Act of Assembly passed at one session and a conformatory Act at the next; but hereafter they are to be made by Conventions, elected for this purpose, at intervals of ten years. The principal arguments urged in favor of this latter mode are:—*first*, that the fundamental law of the State, being superior to all the departments of government, and regulating, among other things, the powers and duties of the Legislature itself, ought not to be under the control of the Legislature or any other department of the government, in order that the equilibrium, and the balances and

checks, which have been provided to preserve the independence of the several departments, should not be destroyed, and that one department should not trespass upon the rights of another;—*secondly*, that the amendment of a Constitution, which is a work of more importance than the ordinary business of legislation, should not be mixed up with this, but be made at a time specially appointed for the purpose;—*thirdly*, that the Delegates to a Convention to amend the Constitution will be wiser and better men than those of the Legislature.

THE DUTIES OF THE LEGISLATURE.

The duties imposed upon the Legislature, by the provisions of the New Constitution, being numerous and interspersed with various subjects throughout the instrument, it will facilitate references to all or any of them to note them in order.

Some of these duties are required either by the instrument itself, or from evident necessity, to be performed, *at the first session of the Legislature* after the adoption of it. These may be seen by reference to the following articles and sections, viz. :

Article 3, *sections* 6, 17, and 40.

Article 4, *sections* 10, 11, 12, 19, and 23.

Article 10, *sections* 2 and 6.

Other Duties of the Legislature are prescribed or referred to in the following, viz. :

Declaration of Rights, No. 41.

Art. 1, *section* 3.

Art. 2, *section* 8.

Art. 3, *sections* 33, 38, 39, 48, and 49.

Art. 4, *sections* 2, 8, 21, and 22.

Art. 7, *sections* 8 and 9.

Art. 9, *section* 1.

The author of these brief notes hopes that they may prove, what they are designed to be, some assistance or help to those who have special duties imposed upon them by the New Constitution, as well as to others who may wish to understand the changes it has produced in regard to their rights, civil and political.

EDWARD OTIS HINKLEY.

BALTIMORE, Oct. 11, 1851.

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